

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

236

CM No.2786-C of 2018 in/and
Regular Second Appeal No.420 of 2008

Date of Decision: February 28th 2019

The State of Haryana and others

...Appellants

Versus

Ranbir Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Pradeep Prakash Chahar, Deputy Advocate General,
Haryana, for the appellants.

Mr. R.N. Lohan, Advocate
for the respondent.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM No.2786-C of 2018

Prayer in this application is for listing the appeal on some actual date.

For the reasons mentioned in the application, the present application is allowed.

The appeal is taken on board for final disposal.

RSA No.420 of 2008

Challenge in this appeal is to the judgment and decree dated 26.05.2007 passed by the Additional Civil Judge (Senior Division), Jind, whereby the suit of the respondent-plaintiff for declaration with consequential relief of mandatory injunction for granting him salary in the pay scale of ₹950-1400 instead of ₹750-940 from the date of appointment on the post of Keyman on compassionate ground, was allowed but the arrears were not granted, which have been granted in appeal preferred by the respondent by the Appellate Court vide judgment dated 01.11.2007.

The appeal, however, preferred by the State stood dismissed by the learned District Judge, Jind, vide the same order.

2. It is the contention of learned counsel for the appellants that the father of the respondent Shri Lakhmi Chand was working on the post of Work Supervisor in the office of Sub Divisional Officer, PWD (Public Health), Jullana, District Jind, when he unfortunately died in office on 22.07.1997. Lakhmi Chand was drawing the pay scale of ₹1200-2040 as a Work Supervisor. Respondent-plaintiff submitted an application for appointment on compassionate ground and was appointed on a Class IV post of Keyman carrying pay scale of ₹750-940. The claim made by the respondent-plaintiff was that he was entitled to the pay scale of the post which is one step lower in pay scale than what was being last drawn by his deceased father. The said suit was accepted by the trial Court and granted him the pay scale of ₹950-1400 but the arrears as claimed by the respondent-plaintiff from the date of his appointment i.e. 16.11.1998 was declined.

3. This judgment dated 26.05.2007 passed by the trial Court was challenged by the respondent-plaintiff as well as the appellants-defendants, which appeals ultimately were decided vide judgment dated 01.11.2007 by the District Judge, Jind, whereby the appeal preferred by the defendants was dismissed, whereas that of the plaintiff accepted by upholding the judgment passed by the trial Court and further arrears were also granted restricting the same to 38 months prior to the date of filing of the suit to the respondent-plaintiff.

4. This judgment has been challenged in the present appeal by the appellants by asserting that the judgments and decree passed by the Courts

below cannot sustain.

5. Counsel for the appellants has relied upon the judgment of Hon'ble Supreme Court in *State of Haryana Versus Kanta Rani 2000 (4) SCT 959*, wherein reliance has been placed upon the judgment of the Hon'ble Supreme Court in *SLP (C) No.778 of 1999* titled as *State of Haryana and others Versus Rajiv Deshwal* decided on 22.03.1999, where it has been held that the employee, who has been appointed on a post which is a step down i.e. if the deceased employee was working on a Class III post and the person, who is appointed on compassionate ground is appointed on a Class IV post, the said dependent would be entitled to the pay scale of the post held by him/her and not the pay scale which is one step down, as has been claimed in the present suit.

6. I have considered the submissions made by the counsel for the parties in this regard and keeping in view the principles as have been laid down by the Supreme Court in its judgment in *State of Haryana and others Versus Rajiv Deshwal (supra)*, which has been relied upon and followed by the Hon'ble Supreme Court in the case of *Kanta Rani (supra)*, the relief which has been granted by the Courts below to the respondent-plaintiff cannot sustain.

7. In view of the above, the present appeal is allowed, the impugned judgment dated 26.05.2007 passed by the Additional Civil Judge (Senior Division), Jind, and judgment and decree dated 01.11.2007 passed by the learned District Judge, Jind, are hereby set aside and the suit of the respondent-plaintiff is dismissed.

February 28th 2019

Puneet

AUGUSTINE GEORGE MASI(H)

JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No