

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Date of Decision:-18.01.2019

RSA No.4240 of 2018(O&M)

State of Haryana & Ors.

.....Petitioners.

Versus

Dr. K.K. Yadav.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Arun Beniwal, Deputy Advocate General, Haryana
assisted by Mr. Vijay Grover, Accounts Officer, O/o
Finance Department, Government of Haryana (Pay Revision).

Mr. R.K. Malik, Senior Advocate assisted by
Ms. Kanu, Advocate &
Mr. Samrat Malik, Advocate for applicant/respondent
(in **CM No.14009-C of 2018**).

JASWANT SINGH, J.

Appellant-State of Haryana is in appeal aggrieved against the concurrent findings returned by the Courts below, whereby the suit filed by respondent-Dr. K.K. Yadav was allowed by Civil Judge (Jr. Divn.), Narnaul vide its judgment and decree dated 04.09.2014 and the findings thereof have been affirmed by Additional District Judge, Narnaul, vide judgment and decree dated 28.03.2018.

Learned Counsel for the appellant-State has argued that the courts below have wrongly decreed the suit of the plaintiff-respondent although it is proved on record that he is not entitled to the benefit of

bunching of increment as the same was, at the first instance, erroneously granted to him. The act of withdrawal of this benefit from him was correct. The officer concerned, it is submitted, had committed yet another mistake by directly fixing his pay in Rs.37,400-67,000+8700 GP whereas his pay should have been fixed in the pay scale of Rs.15600-31900+7600 GP as on 01.01.2006 due to mis-interpretation of relevant instructions. Thus, as and when the department came to know about the wrong fixation, an inquiry was conducted and said pay fixation was corrected and, thereafter, excess payment was rightly recovered from the retiral benefits of the respondent-plaintiff. Hence, prayer has been made for setting aside the impugned judgments and decrees passed by the Courts below by allowing the instant appeal.

On the other hand, learned Counsel for the respondent has supported the judgments passed by the Courts below and has argued that the order of re-fixing the original pay and further refund of amount of Rs.3,91,651/- from the appellants to the respondent is perfectly justified.

After having scrutinized the arguments raised by learned Counsel for the parties, and perusing the paper book, I am of the opinion that the instant appeal is devoid of any merit and, therefore, deserves dismissal.

Admittedly, the pay of the respondent-plaintiff was fixed on the basis of 6th Pay Commission w.e.f. 01.01.2006 at Rs.37,400-67,000 + 8700 in the pay band of Rs.43,390/- + 8700/- as grade pay, at par with Dr. Rohtas Yadav. As per Revised Pay and Assured Career Progression Rules, 2008, a Senior Medical Officer completing three years of service, whose pay scale was in the range of Rs.12,000-16,500/- was entitled to fixation of the pre-

revised modified pay scale at Rs.14,300-18,300 and further was entitled to revised pay band of Rs.37,400-67,000/-. Admittedly, as per service book of respondent-plaintiff Ex.P-2, he was promoted to the post of Senior Medical Officer on 09.08.2000 and on 01.01.2006 he had completed six years of service as Senior Medical Officer. Consequently, as per revised pay scale declared by Haryana Government on 20.02.2009, respondent was rightly entitled for revised pay scale at the rate of Rs.37,400-67,000. Thus, once it is found that the appellants had rightly fixed the pay scale of respondent and thereafter had wrongly revised the same, I am of the opinion that Courts below had rightly ordered recovery of the amount deducted by the appellants from his retiral benefits. The argument that the pay of respondent was inadvertently fixed by concerned official is without any merit and, therefore, rejected in view of the observations made herein above.

As an upshot of the findings recorded herein above, finding no merit in the present second appeal, the same is hereby dismissed.

(JASWANT SINGH)

JUDGE

January 18th, 2019

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>