

R.S.A. NO.4841 OF 2018

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

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R.S.A. NO.4841 OF 2018

DATE OF DECISION: DECEMBER 19,2019

Smt.Sheela

.....Appellant

VERSUS

State of Haryana and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr. Ram Pal Verma, Advocate,
for the appellant.**

**Mr. Manish Dadwal, AAG, Haryana,
for the State.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

**On 20.11.2019, when this case came up for hearing, following
order was passed:-**

“CM-13083-C-2018

***Prayer in this application is for condonation of delay of
22 days in refiling the appeal.***

***For the reasons mentioned in the application, which is
duly supported by an affidavit of the applicant-appellant, the
same is allowed.***

Delay of 22 days in refiling the appeal stands condoned.

CM-13082-C-2018

Prayer in this application is for exemption from filing

certified copies of judgment and decree dated 20.04.2012 passed by learned Civil Judge (Junior Division), Hisar, Annexures A/1 and A/2 and grounds of appeal before the learned District Judge.

Application is allowed subject to just exceptions.

Exemption, as prayed for, is granted.

RSA-4841-2018

Challenge in this appeal is to the judgment and decree dated 20.04.2015 passed by the Civil Judge (Junior Division), Hisar, vide which the suit of the appellant-plaintiff for declaration to the effect that the appellant is entitled to notional fixation of pay from the date her juniors have been appointed and for other consequential benefits, which stands decreed but the arrears have been restricted to 38 months from the date of filing of the suit, which was challenged by the appellant-plaintiff by filing an appeal, which came before the District Judge, Hisar, but the same has been dismissed on 17.01.2018.

Learned counsel for the appellant-plaintiff states that in the light of the judgments passed by this Court in various writ petitions, the appellant-plaintiff is entitled to the benefit of arrears with effect from the date her juniors were appointed as the respondent-department has not been able to give any reasons as to why persons, who were lower in merit, have been given appointment prior to the appellant-plaintiff. He contends that the same relief the appellant-plaintiff is entitled to.

This contention of learned counsel for the appellant cannot be accepted in the light of the fact that the Courts below have taken into consideration the fact that the appellant-plaintiff has approached the Court after a long delay but has not dismissed the appeal on this ground keeping in view the fact that it is a continuous wrong as the pay of the appellant is not being given equivalent to that of her juniors. The judgments and decree, therefore, on this count, passed by the Courts below, cannot be faulted with.

At this stage, learned counsel for the appellant-plaintiff asserts that the appellant-plaintiff had sought interest on delayed payment but no interest has been granted by the Courts below except for the arrears, especially when it has been concluded by the Courts below that there was no fault on the part of the appellant-plaintiff and in fact, the respondents were liable for the delay and wrongfully denying the appellant-plaintiff the right of appointment to the post when her juniors, lower in merit, were appointed.

Notice of motion.

On the asking of the Court, Mr. Manish Dadwal, Assistant Advocate General, Haryana, accepts notice.

Let a copy of the paper book be handed over to the counsel for the State during the course of the day under proper receipt.

List on 19.12.2019.

To be shown in the urgent list.”

Having considered the submissions made by counsel for the parties and keeping in view the order dated 20.11.2019 passed by this Court, the judgments and decree passed by the Courts below are modified to the extent that the appellant-plaintiff would be entitled to interest at the rate of 6% per annum on the arrears as granted by the Courts below.

With the above modification in the judgments and decree, the appeal stands disposed of.

December 19, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No