

RSA-5676-2017 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

RSA-5676-2017 (O&M)

Date of Decision: 22<sup>nd</sup> January, 2019

State of Haryana & others

...Appellants

Versus

Jarnail Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Manish Dadwal, AAG, Haryana  
for the appellants.

Mr. Amit Kaith, Advocate  
for the respondent.

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AUGUSTINE GEORGE MAS IH, J. (ORAL)

CM-11266-C-2018

Annexures A-1 to A-10 are taken on record, subject to all just  
exceptions.

Application stands disposed of.

CM-14988-C-2017

Prayer in this application is for condonation of delay of 173  
days in filing the appeal.

For the reasons mentioned in the application along with  
subsequent additional affidavit of the General Manager, Haryana Roadways,  
Chandigarh, dated 05.07.2018, delay of 173 days in filing the appeal stands  
condoned.

Application stands allowed.

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Respondent – plaintiff had filed a suit for declaration to the effect that he is entitled for additional increment as per instructions dated 14.05.1991 and 07.08.1992, standard pay-scale as per instructions dated 08.02.1994, second ACP scale w.e.f. 01.01.1996 and 3<sup>rd</sup> ACP scale w.e.f. 01.01.2006, with a suit for mandatory injunction directing the defendants for grant of additional increment as per instructions and rules referred to above along with interest @ 12% per annum from the date of accrual till its realization.

During the pendency of suit and appeal, most of the reliefs as claimed by the respondent – plaintiff had been granted as is apparent from the judgment passed by the learned Additional District Judge, Chandigarh, dated 24.01.2017. According to the said judgment, after passing of the decree by the trial Court, whereby, claim of the respondent – plaintiff had been accepted, the dispute/differences were narrow down to the entitlement of the respondent – plaintiff for the 3<sup>rd</sup> ACP with interest on the amount i.e. whether it was ₹ 3600/- or ₹ 4000/-. The said aspect has been dealt with by the Court in para 15 of the said judgment. The said paragraph reads as follows:-

“15. The arguments advanced by both the sides are duly considered apart from perusing the record. The suit was filed by the plaintiff-appellant by claiming lot of reliefs against the defendant/respondents, however, during the pendency of the suit, most of the reliefs as claimed by the plaintiff/appellant have already been granted. Now the dispute between the parties can be reduced to the short

controversy. The only contention of the appellant-plaintiff is that he is entitled for Rs.3600/- as third ACP with interest, while the contention of learned GP for defendants-respondents is that the third ACP to the tune of Rs.3300/- has been rightly granted to the plaintiff-appellant. It is alleged that the rules granting ACP as Rs.3600/- have come in force in the year 2014 while he has already retired in the year 2013, therefore, he is not entitled for the same. In this regard this court is of the view that the copy of the schedule of the ACP as per rules of 2008 applicable from the year 2006 has been placed on record by learned counsel for the appellant/plaintiff on the record. As per this schedule, an employee in the pay scale 4000-1000-4800-EB-100-6000 is entitled for the third ACP to the tune of Rs.3600/-. It is wrong to say that these rules came into force in the 2014 rather these were already in existence. As per Amended Rules 2014 the third ACP goes at the rate of Rs.4000/- in said pay scale. In such a situation, the plaintiff-appellant is entitled for third ACP to the tune of Rs.3600/- per month from the date when the ACP was given at the rate of Rs.3300/-. He is entitled for interest at the rate of 6% per annum on the arrears. In such circumstances, the suit of the plaintiff-appellant is liable to be decreed to the above extent.”

This Court is of the view that the conclusion as has been drawn by the lower Appellate Court in its judgment dated 24.01.2017, as reproduced above, cannot be faulted with as the same is based upon the Haryana Civil Services (Assured Career Progression) Rules, 2008. The rate at which the increment has been granted is as provided under the said rules,

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respondent – plaintiff was fully entitled for the same and accordingly, rate at which he has been granted the said increment i.e. ₹ 3600/- cannot be faulted with. Similar is the position with regard to the grant of interest to the respondent – plaintiff.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

CM-14989-C-2017

In the light of the dismissal of the main appeal, no order is required to be passed in the present application for stay as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)  
JUDGE

22<sup>nd</sup> January, 2019  
Harish

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|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether Reportable:        | Yes/No |