

212 (2 cases)

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

1. RSA-4276-2005 (O&M)
Date on which reserved: 08.08.2022
Date of Pronouncement: 10.08.2022

Shyam LalAppellant (Plaintiff)

Versus

CCS, Haryana Agricultural University, Hisar
through its Vice Chancellor and others Respondents (Defendants)

2. RSA-4277-2005 (O&M)

Dharamvir Singh Appellant (Plaintiff)

Versus

CCS, Haryana Agricultural University, Hisar
through its Vice Chancellor Respondent (Defendant)

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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Present: Mr. Pankaj Maini, Advocate
for the appellant/s.

Mr. Vijay Singh, Advocate and
Mr. Rishu Madan, Advocate
for the respondent-University

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MANJARI NEHRU KAUL, J.

This order shall dispose of two Regular Second Appeals i.e. RSA-4276-2005 and RSA-4277-2005 as common question of law and fact arises in both these cases. For the sake of convenience, facts have been taken from RSA 4276-2005.

The plaintiff is now before this court in Regular Second

Appeal. Parties to the lis, hereinafter shall be referred to by their original

positions in the suit.

Brief facts as pleaded in the plaint may be noticed hereunder. Plaintiff joined the respondent-University as an Electrician in the year 1980 on work-charge basis in the pay scale of Rs.140-300. His services were regularized on 19.10.1989 and he was put in the pay scale of Rs.1200-2040. The grievance of the plaintiff was that Umed Singh and Amar Singh, who were his juniors and who were working as Electricians, had been given the pay scale of Rs.1400-2600 even though their qualifications were inferior to that of the plaintiff. Hence, the plaintiff also deserved to be given the same pay scale as Umed Singh and Amar Singh, since he too was similarly situated if not better placed than them.

In the written statement filed by the defendant-University, it was submitted that firstly the plaintiff had joined as work-charge Electrician-cum-Plumber in the pay scale of Rs.140-300 and his services were regularized only with effect from 01.01.1987 in the pay scale of Rs.1200-2040. Secondly, the plaintiff could not seek parity with Umed Singh and Amar Singh as not only were they working on different designations but even the qualifications and job requirements of Electrician-cum-Plumber and Electrician were different.

The trial court decreed the suit of the plaintiff vide judgment and decree dated 14.12.2002 which was filed for declaration with consequential relief of mandatory injunction. However, the lower Appellate Court after placing reliance upon the judgment of the Supreme Court in ***Umesh Chandra Gupta and others v. Oil and Natural Gas Commission and others*** AIR 1989 Supreme Court 29 reversed the order of the trial court on the ground that since the defendant-University was an autonomous body,

having its own rules and regulations, the work and responsibilities of the post were matters which were to be evaluated by the management and were outside the purview of the court. It was still further held that the duties of an Electrician differed from the duties done by an Electrician-cum-Plumber and hence the decision of the respondent-University in denying the pay scale to the plaintiff could not be faulted with.

Learned counsel for the appellant/plaintiff has vehemently argued and reiterated the stand taken before the courts below that he was entitled to the same pay scale as that of an Electrician i.e. Rs.1400-2600, which Umed Singh and Amar Singh were getting. While drawing the attention of this court to letter Ex.PW6A it was urged that it clearly found reflected therein that in case of dual designation, the first post would have to be given preference. He submitted that since the first post of the plaintiff was that of an Electrician, it should have been taken into consideration for his promotion, preparation of seniority list and also fixing his pay scale. Learned counsel also drew the attention of this court to Ex.P3 wherein it clearly stood mentioned that the pay scale with respect to Electrician and Electrician-cum-Plumber was Rs.1400-2600. He also placed reliance upon the judgment of this court in ***Chaudhary Charan Singh Haryana Agricultural University, Hisar and another v. Bane Singh***(Regular Second Appeal No. 3262 of 2009).

Per contra learned counsel for the defendant while opposing the submissions made by the opposite counsel submitted that the findings recorded by the lower Appellate Court were well reasoned and did not warrant any interference. He submitted that the defendant-University was an autonomous body and thus the principle of equal pay for equal work would

not apply in the case of the plaintiff. It was argued that the classification of employees and their cadres had been made by the defendant-University on the basis of the experience and qualifications of the employees. He further submitted that even the criteria for appointment of an Electrician and Electrician-cum-Plumber was different. He thus submitted that since the Electrician and Electrician-cum-Plumber belonged to different cadres, the reliance placed by the counsel opposite on the judgment in ***Chaudhary Charan Singh Haryana Agricultural University's case (supra)*** would not come to the rescue of the plaintiff.

I have heard the learned counsel and perused the relevant material on record.

The lower Appellate court clearly fell into error by failing to take note of the fact that admittedly the pay scale for Electrician and Electrician-cum-Plumber was the same i.e. Rs.1400-2600, which fact was not disputed by the learned counsel for the defendant-University.

The plaintiff admittedly was a regular employee and his first post was of Electrician. In addition, it also stood mentioned and stipulated in Ex.PW6A (Delegation of Powers to Appointing Authority) that in case of dual designation, the first post would have to be given preference. In the light of the aforementioned facts, the plaintiff being an Electrician would stand entitled to the same pay scale as that of Umed Singh and Amar Singh. The submissions made by the learned counsel for the defendant-University that ***Chaudhary Charan Singh Haryana Agricultural University's case (supra)*** is not applicable to the case of the appellants and deserves to be rejected. It would be apposite to reproduce the relevant extract of the observations of this court in ***Chaudhary Charan Singh Haryana***

Agricultural University's case (supra):-

“Whether the courts below could have granted this scale which was not prayed for by the plaintiff in the suit?

The senior counsel seems to contend that the prayer, which has been allowed by the trial court and upheld by the 1st appellate court was not even made by the respondent-plaintiff. The perusal of Exh.D-6, which was relied upon by the trial court would show that the scale of Electrician-cum-Plumber on week charge basis was revised from 480-760 to 1200-2040 w.e.f. 01.04.1987. The trial court has rightly observed that this scale was meant for work charge employees and not for regular employees. Since the respondent was a regular employee, the submission that the respondent was appointed as Electrician-cum-Plumber who was adjusted as Plumber-cum-Electrician on account of non-availability of the post for which he was selected would not come to the rescue of the appellants, specially so in the background that as per Ex.P-7 relied upon by the authorities, the pay scales of Electrician-cum-Plumber and Plumber-cum-Electrician are the same. It is thus, not possible to construe that there were some different pay scales or that some different pay scales were claimed which were not due to the respondent. This is only a factual controversy and no substantial question of law arises for determination. I am, thus, not inclined to interfere in the Regular Second Appeal.”

As a sequel to the above and letter Ex.PW6/A i.e. Delegation of Powers to Appointing Authority of the respondent-University, this Court has

no hesitation in holding that since the first post of the appellant was that of an Electrician, the same would have to be taken into consideration for promotion, fixing of seniority and also his pay scale. Consequently, both the appeals are allowed. The judgment and decree dated 17.08.2005 passed by the lower Appellate court i.e. District Judge, Hisar, in both the cases is set aside and the judgments and decrees dated 14.12.2002 and 03.01.2003 passed by the trial court i.e. Civil Judge (Jr. Divn.), Hisar are upheld.

10.08.2022

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Note: Whether speaking/reasoned
Whether Reportable:

(MANJARI NEHRU KAUL)
JUDGE

Yes / No
Yes / No