

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

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**RSA-2759-2022 (O&M)
Date of decision: 21.12.2022**

Krishan Kumar

.....Appellant

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. B.S. Mittal, Advocate and
Mr. Munish Kumar Kansal, Advocate
for the appellant.

Mr. Rohit Arya, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Plaintiff is in Regular Second Appeal impugning the judgment dated 03.09.2022 passed by the Lower Appellate Court whereby the judgment and decree dated 29.03.2016 passed by the Trial Court has been reversed against the plaintiff and in favour of the defendant-State.

Parties to the *lis*, hereinafter shall be referred to by their original positions in the suit.

The pleaded case of the plaintiff may be noticed as thus: the plaintiff was an employee of Department of Transport, Haryana wherein he was working as Assistant Electrician. The plaintiff joined the department on 10.07.1984 and his services were regularized in February, 1985. Two employees namely Kulwinder Singh and Lakhwinder Singh, who were junior to the plaintiff were drawing higher salary than him. The plaintiff filed the present suit for stepping up of his salary equivalent to his juniors Kulwinder Singh and

Lakhwinder Singh, who were working in the same cadre as the plaintiff. The plaintiff averred that since both these employees were getting more salary than him, therefore, in the light of settled law, he too was entitled to step up of his pay. The Lower Appellate Court held that the case of the plaintiff was not at par with that of his junior employees as they had been given enhanced pay only pursuant to the orders passed by the High Court passed in CWP N.13632 of 2012.

Learned counsel appearing for the plaintiff, at the outset, submits that the following questions of law are involved in the present appeal:-

- i) whether the subsequent withdrawal of instructions by the State Government giving technical pay scale curtails the right of the plaintiff to get pay at par with his juniors?
- ii) whether the plaintiff has a right to seek parity of pay with his juniors, who are drawing salary higher than him, by virtue of directions of the Court?

Learned counsel for the plaintiff submits that the above questions of law already stand settled by this Court in judgment dated 20.04.2022 passed in RSA No.1457 of 2021, wherein it has been held that a senior employee would be entitled to stepping up of his pay while in service, if an employee junior to him was drawing higher salary, even if, such raise in salary had been given to the junior employee by virtue of a Court order. He further submits that the aforesaid judgment rendered by this Court has attained finality as SLP No.25095 of 2022 preferred by the State of Haryana against the said judgment has been

dismissed by the Hon'ble Supreme Court vide order dated 09.09.2022.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite submits that no doubt Kulwinder Singh and Lakhwinder Singh, who were juniors to the plaintiff, were drawing higher salary, however, it was by virtue of a Court order. He has, however, not disputed the submissions made by the counsel opposite that the questions of law involved in the instant appeal are identical to the ones involved in RSA No.1457 of 2021. Learned State counsel has also not disputed that SLP No.25095 of 2022 preferred by the State against the judgment dated 20.04.2022 rendered in RSA No.1457 of 2021 stands dismissed by the Hon'ble Supreme Court vide order dated 09.09.2022.

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

The questions of law involved in the instant appeal have already been settled by this Court in RSA No.1457 of 2021 vide judgment dated 20.04.2022 and has since attained finality. The case of the plaintiff being squarely covered by the judgment rendered by this Court in RSA No.1457 of 2021 has not been controverted by the learned counsel for the State and also that SLP No.25095 of 2022 preferred by the State against the order dated 20.04.2022 passed in RSA No.1457 of 2021 has been dismissed by the Hon'ble Supreme Court vide order dated 09.09.2022.

As a sequel to the above, the present appeal stands allowed and the judgment and decree passed by the Lower Appellate Court is set aside. Defendant department is directed to treat the plaintiff at par

with his juniors and grant him the pay scale equivalent to them.

Since main appeal stand decided, all pending applications also stand disposed of.

21.12.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No