

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

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**RSA-2754-2022 (O&M)
Date of decision: 21.12.2022**

Suresh 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 concurrent findings recorded against him by learned Trial Court vide judgment and decree dated 13.11.2017 and affirmed by the Lower Appellate Court vide judgment dated 21.10.2022.

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 joined on the post of plumber helper in the office of defendant No.3 on 02.02.1985 and was subsequently promoted as electrician with effect from 01.04.2003. One, Hawa Singh working as electrician helper, who was junior to the plaintiff, was drawing more salary than him. The plaintiff while filing the suit in question sought stepping up of his pay equivalent to his junior along with arrears of salary. The suit of the plaintiff was dismissed by both the Courts below by recording the concurrent findings wherein it was held that the plaintiff could not claim parity with the employee junior to him namely Hawa Singh, who was receiving higher salary pursuant to order of the

High Court passed in CWP No.19980 of 2008, whereas no such benefit had been extended to the plaintiff.

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, whereby 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 Hawa Singh, who was junior to the plaintiff, was 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 judgments and decrees passed by the Courts below are 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

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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