

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

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2023:PHHC:087339

RSA-4281-2019 (O&M)
Date of decision: 13.07.2023

RAJINDER PARSAD

..Appellant

Versus

LIFE INSURANCE CORPORATION OF INDIA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sapan Dhir, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

CM-11998-C-2019

1. For the reasons stated in the application which is supported by an affidavit, the application for condonation of delay is allowed.
2. The delay of 174 days in refiling the appeal is condoned
3. CM stands disposed of.

Main case

4. Through this appeal, the plaintiff assails the correctness of concurrent findings of fact arrived at by the Courts below while dismissing his suit for grant of decree of declaration.
5. Some relevant facts, that are required in order to understand the controversy involved, in the present case are noticed here.
6. It is the case of the plaintiff that he was engaged as a part time sweeper on 05.10.1988 at the rate of Rs.275/- per month. Subsequently, he was appointed as a full time sweeper on 06.04.1994 on a basic salary of Rs.785/- per month. He was granted the computer increment but it was stopped subsequently. He claims to be entitled to a salary of Rs.950/- per

month. Defendant-The Life Insurance Corporation of India has stated that the appellant was engaged on a part time basis for three hours a day on the payment of Rs.387.85/-. Subsequently, the appellant's services were regularized on the regular pay-scale. The computer increment was payable only when the appellant was working on a part time basis, hence, it was stopped with effect from 06.04.1994. It has been submitted that the appellant cannot claim salary more than the pay-scale payable to the regular employees.

7. Both the Courts on appreciation of evidence have concurrently found that the suit filed by the plaintiff in the year 2012 is time barred. The First Appellate Court has also found that the plaintiff has failed to make out a case for computer increment as well as salary at the rate of Rs.950/- per month.

8. Along with the appeal, the appellant has also filed an application under Order XLI Rule 27 of the Code of Civil Procedure, 1908. The appellant wishes to produce in additional evidence the orders passed on 12.10.2009 and 05.10.2010 while rejecting the appellant's representation.

9. The learned counsel representing the appellant while referring to the documents Ex.P-3 and Ex.P-4 submits that the appellant was entitled to the computer increment, which was paid upto the year 1994 but illegally stopped. He submits that the salary of the appellant on regularization could not be reduced.

10. This Court has considered the submissions and carefully examined the documents Ex.P-3. As per Clause A, an additional increment for computerization is payable to certain categories of employees. Under Clause 3, the employees who have been recruited after 01.11.1993 but before 22.06.2000 and were confirmed in the service as on 22.06.2000 are entitled to

the additional increment. The appellant was recruited as part time sweeper on 05.10.1988. His services were regularized on 06.04.1994. Hence, the aforesaid instructions are not applicable to the appellant. Instructions Ex.P-4 are applicable to the regular part time employees of the Corporation, whereas, the appellant is a full time regular employee of the Corporation, hence, instructions Ex.P-4 are not applicable.

11. As regard the second argument, it may be noticed that the defendant while contesting the suit has categorically asserted that the appellant was engaged on a salary of Rs.387.85/- per month in the beginning. Subsequently, upon regularization of his services, the appellant was paid in the regular pay-scale with basis salary of Rs.750/-. The total emolument of the appellant including dearness allowance and various other allowances would be much more. In any case, once the services of an employee are regularized, he has to be paid in accordance with the regular pay-scale adopted by the employer.

12. In additional evidence, the appellant wishes to produce orders which were passed by the authorities on his representation. The effect of the aforesaid order has already been considered.

13. Keeping in view the aforesaid discussion, finding no merit, the appeal is dismissed.

14. All the pending miscellaneous applications, if any, are also disposed of.

July 13th, 2023

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**(ANIL KSHETARPAL)
JUDGE**

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