

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 6464 of 2018 (O&M)**

**Date of Decision: 25.09.2023**

Kailash Chander Sarna

... Petitioner(s)

Versus

Punjab Agricultural University, Ludhiana and Another

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Dhiraj Chawla, Advocate  
for the petitioner(s).

Mr. Sanjeev Sharma, Advocate  
for the respondents.

**Anil Kshetarpal, J.**

**CM-15157-CII-2023**

1. While taking on record the document (Annexure P1), the application is allowed.

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2. The petitioner before this Court is a holder of a decree passed by the Civil Court. His suit for the grant of decree of declaration was decreed by the trial court on 23.04.2013 with the following observations:-

*“25. In view of the observations made in the previous paras, this court has reached the conclusion that the plaintiff has partly proved his case. As such the suit of the plaintiff is hereby partly decreed and it is hereby declared that order bearing endorsement No. Admn. 2K1/9250-54 dated 4.5.01 issued by the defendant no.2 whereby the plaintiff was declared not entitled to receive the payment of arrears of salary w.e.f 1.7.1987 to 5.8.96 in the pay scale of Rs.2410- 4000+ allowance is illegal, void, nonest, wanton, unconstitutional and is hereby set aside; further a mandate is hereby issued to the defendants to release the arrears of pay, as may be prevalent at*

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*that time and the higher pay scale, as the plaintiff may be entitled to, from the date of deemed promotion i.e. from 1.7.1987 alongwith interest @ 12% per annum from the date when the amount become dues. Parties are left to bear their own costs. Decree sheet be prepared. File be consigned to record room.”*

3. The petitioner also challenged the correctness of the notification issued by the Punjab Agricultural University prescribing the pay-scale of Rs.2410-4000 for the post of the Press Manager. The Civil Court held that the correctness of such notification dated 12.08.1991 cannot be challenged in a Civil Court. This judgment was upheld in an appeal as well as in the second appeal with a slight modification that the rate of interest shall be 9% instead of 12%.

4. The petitioner filed an execution petition. On one hand, the petitioner claims that the total amount due against the judgment debtor is ₹18,92,384/- as he is entitled to arrears in the pay-scale of ₹3700-5000 and the arrears are required to be calculated from 01.07.1987 to 30.11.2000. The Executing Court has held that the petitioner is entitled to ₹20,199/- and the claim for the pay-scale of Rs.3700-5000/- was never a part of the decree and in fact, the notification as issued in the year 1991 prescribing the pay-scale of a Press manager as ₹2400-4000/- has not been set aside. The operative part of the order passed by the Executing Court reads as under:-

*“7. The facts, which leads to the present application, are that the DH/applicant filed a civil suit seeking various reliefs and the said suit was partly decreed dated 23.04.2013 vide which it was held that DH is entitled to arrears of pay w.e.f. 01.07.1987 and the rate of interest was modified by Hon'ble Punjab and Haryana High Court vide order dated 17.04.2018 @9%. Both*

*the parties have appeared in person and filed their respective calculations. As per the calculations filed by DH, he claims arrears of salary w.e.f. 01.7.1987 to 30.04.2018 and vide which the total amount due against JD is Rs.18,92,384/-. On the other hand, the calculations are filed by JD also and they show that the only Rs.20199/- is due against the DH.*

*(i) The calculations filed by DH specifically shows that he claims pay scale of Rs.3700-5000/- whereas JD claims that he is entitled to pay scale of Rs. 2400-4000/-. Perusal of file shows that vide notification no CAU-B(I)-91/5357 , the pay scale of promotees has been fixed at 2400-4000. This notification has been challenged by DH in civil suit no 32 dated 15.01.2003 but the ld. Court has observed that “this Court can not set aside the notification as this Court does not have jurisdiction to this effect. The plaintiff has appropriate remedy to challenge the notification by way of filing writ petition and Civil Court has no jurisdiction to declare the notification to be illegal, null and void. So the plaintiff is not entitled to annul the notification, not entitled to declaration that notification being illegal null and void.” The observations made by the ld. Court are upheld by Hon'ble Punjab & Haryana High Court. Further the JD has also placed on record salary statement of another employee Kamal Mohan Chopra, who has been promoted to the post of Press Manager and perusal of the same shows that he was given pay scale of 2400-4000. Therefore, I am of considered opinion that DH is entitled to pay scale of 2400-4000.*

*(ii) Further the DH claims C.P.F., leave encashment and gratuity w.e.f. 01.07.1987 to 30.04.2018 but in judgment and decree dt. 23.04.2013 these reliefs are not given to the DH and the present execution application has been filed on the basis of this judgment and decree. Accordingly, the DH is held not entitled to these reliefs also.*

*(iii) Further the time period for which the DH is claiming*

*arrears of salary is 01.07.1987 to 30.11.2002 whereas JD has given the difference in pay for the period of 01.07.1987 to 05.08.1996. Perusal of the judgment decree dated 23.04.2013 shows that DH has retired on 30.11.2000. Further perusal of said judgment decree shows that the DH was given relief of arrears of salary w.e.f. 01.07.1987 and no other date has been mentioned. In my opinion, DH is entitled to arrears of salary w.e.f. 01.07.1987 to 30.11.2000.*

*(iv) It is well clear from the observations made above, DH is entitled to pay scale of 2400-4000 w.e.f. 01.07.1987 to 30.11.2000 @9% till date.*

*(v) Further the detailed submitted by both the parties shows that there is difference between amount specified as drawn by DH. The JD has not filed any proof regarding the amount drawn by the DH. Accordingly, the value specified by DH as amount drawn for the said period is to be taken note of.*

*In view of the detailed discussions made above, JD is directed to submit the details of amount due in favour of DH till 16.07.2018. JD is further directed to pay the differential amount to DH on the date fixed.”*

5. The correctness of the aforesaid order has been challenged in this revision petition.

6. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

7. The learned counsel representing the petitioner submits that in para 25 of the judgment of the trial Court, it was specifically observed that the petitioner shall be entitled to a higher pay-scale as he may be entitled to as per his post. The learned counsel submits that thus, the direction was issued to calculate the arrears in the pay-scale of ₹3700-5000 and not the

pay-scale of ₹2400-4000.

8. On the other hand, the learned counsel representing the respondent submits that the trial Court, in this very judgment dated 23.04.2013, held as under:-

*“14. So far as second relief is concerned that notification dated 12.8.1991, whereby the pay scale of Press Manager foreman has been reduced is illegal and arbitrary is concerned, this court has observed that this court cannot set aside the notification as this court does not jurisdiction to this effect the plaintiff has appropriated remedy to challenge the notification by way of filing writ petition and civil courts have no jurisdiction to declare the notification to be illegal, null and void. So the plaintiff is not entitled to annul the notification, not entitled to declaration that notification being illegal null and void.*

15 to 18      XXXX      XXXX      XXXX      XXXX

*19. The plaintiff has further sought three mandates against the defendant i.e. they should release the arrears of pay and higher pay scale from the time of promotion," secondly they should grant him higher pay scale under A.C.P. Scheme and thirdly they should release him retrial benefits alongwith interest @ 18% p.a. So far as second and third reliefs are concerned, the plaintiff is not entitled to both of them, because the plaintiff has been held not entitled to declaration that he is not entitled to get the higher scale under A.C.P scheme and further that he his already received all the retrial benefits as admitted by plaintiff in his cross examination. The only mandate which can be issued to defendants is release of arrears alongwith higher pay scale, if any from the date of deemed promotion i.e. 1.7.1987 alongwith interest @ 12% p.a. from the date when the amount become due. Therefore this issue is*

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*partly decided in favour of the plaintiff and against the defendants.”*

9. This Court has considered the submissions. The Executing Court is required to get the decree passed by the Court of competent jurisdiction implemented. However, in the execution petition, the Court cannot travel beyond the decree which has already been passed. It is evident that the suit qua challenge to the notification dated 12.08.1991 was dismissed as the Civil Courts have no jurisdiction. In these circumstances, the observation made by the trial Court in para 25 is required to be read in that context. The Court, while decreeing the suit, has only made general observations that the petitioner may be paid the higher pay-scale, if he is entitled to. Such observations would not result in nullifying the observations made in para 14 of the judgment.

10. Moreover, the Court has decreed the suit by directing that the order dated 04.05.2001, whereby the petitioner was declared not entitled to receive the payment of arrears of salary w.e.f. 01.07.1987 to 05.08.1996 was declared illegal, void and nonest.

11. Keeping in view the aforesaid circumstances, this Court does not find any reason to interfere with the order passed by the Executing Court. Hence, the present revision petition is dismissed.

12. The miscellaneous application(s) pending, if any, shall stand disposed of.

**(Anil Kshetarpal)**  
**Judge**

**September 25, 2023**

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No