

**CM-2175-C-2022; CM-2174-C-2022;
CM-2176-C-2022; CM-2177-C-2022 in/and RSA-725-2022**

2023:PHHC:070887 1

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

**(286) CM-2175-C-2022;
CM-2174-C-2022;
CM-2176-C-2022;
CM-2177-C-2022 in/and
RSA-725-2022
Date of Decision : May 16, 2023**

Major Singh

.. Appellant

Versus

O.S.D.A.V Public School and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Sumanpreet Aulakh, Advocate, for the appellant.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-2175-C-2022

Present application has been filed for condonation of delay of
51 days in filing the appeal.

Keeping in view the averments made in the application, which
are duly supported by an affidavit, the application is allowed and delay of
51 days in filing the appeal is condoned.

CM-2174-C-2022

As prayed for, the application is allowed.

Delay of 55 days in re-filing the appeal is condoned.

CM-2176-C-2022

As prayed for, the application is allowed.

CM-2177-C-2022

Present application has been filed for allowing the additional evidence in the present appeal and for placing on record the letter dated 21.05.2010 as Annexure A-1.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and Annexure A-1 is taken on record.

RSA-725-2022

1. Present Regular Second Appeal has been filed challenging the judgments and decrees of the Court below dated 30.11.2016 and 06.09.2019 by which the suit filed by the appellant-plaintiff seeking revision of pay scale w.e.f. 01.01.2006 along with arrears, has been declined.

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

3. The appellant-plaintiff was employed as a Driver with respondent No.1- School, Kaithal where he worked from 1994 till 30.09.2008. Thereafter, he was transferred from respondent No.1 to respondent No.2 school where he worked upto the date he sought voluntary retirement i.e. 31.12.2009. The Central Government revised the pay scale of its employees w.e.f. 01.01.2006. The said revision of pay scale took place in the year 2009 but w.e.f. 01.01.2006. Upon revision, as the drivers, who were working with the respondent-institution at the relevant time, were

granted the revised pay scale from 01.01.2006, the appellant-plaintiff also

claimed the same benefit on the ground that he was working with the respondent-institution as on 01.01.2006 and remained there till 31.12.2009 hence, he is entitled for the arrears of the revision of the pay scale.

4. As the benefit was not being granted, the appellant-plaintiff filed a civil suit. Before the Court, the respondents stated that the revision of the pay scale by the Central Government is not ipso facto applicable upon the respondent-institution as the same are being managed by the private management but the said pay scales were adopted by the private management with the clear indication that the same will only be extended to the employees who were in service on the date when the pay scales were adopted and as by the said date, the appellant-plaintiff had already sought voluntary retirement and was not in the service, the benefit of the same cannot be granted to him especially when the resolution passed by the Management adopting the pay scale is not under challenge.

5. Keeping in view the facts and evidence which came on record that the civil suit filed by the appellant-plaintiff was dismissed by the trial Court vide judgment and decree dated 30.11.2016.

6. Feeling aggrieved against the said decision, appeal was preferred, which also came to be dismissed on 06.09.2019. Hence, the present Regular Second Appeal.

7. Learned counsel for the appellant argues that in the present case, once it is a conceded position that the appellant was in service as on 01.01.2006 and remained in job till 31.12.2009, the revised pay scale as extended to the employees of the respondent-school, should have been extended to him also.

8. Learned counsel for the appellant submits that the Courts below failed to appreciate that once the appellant-plaintiff was actually discharging the duties for the period in question, he is entitled for the revision of pay scale.

9. I have heard learned counsel for the appellant and have gone through the record with her able assistance.

10. It may be noticed that the revision of pay scale was by the Central Government of its employees. The said revision was adopted by the private managements to be implemented on its own employees but with certain conditions that the same will only be applicable to the employees who were in service on the day when the revised pay scale has been adopted.

11. No embargo has been brought to the notice of this Court that the private managements are not within its jurisdiction to decide the date and the method and the category of employees to whom the revised pay scale will be implemented.

12. Once a private management of the respondent-school decided to implement the revised pay scale with the condition that the same will only be applicable upon the employees who are in service on the date of passing of the Resolution, it cannot be said that the pay scale is to be implemented contrary to the Resolution or the Court has power to amend the Resolution so as to grant the benefit to all employees.

13. Furthermore, it is a conceded position that the said Resolution has not been challenged even while filing the civil suit. That being so, the

validity of the said Resolution cannot be looked into by the Court so as to

come to the conclusion that the condition imposed in the Resolution passed by the private management is to be ignored so as to grant the benefit of revised pay scale to the appellant-plaintiff, who was not in service on the day of the passing of the Resolution when the revised pay scales were adopted.

14. Keeping in view the above, there is no perversity in the findings recorded by the Courts below while deciding the issue.

15. No other argument was raised.

16. Dismissed.

May 16, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No