

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

RSA-1782 of 1993(O&M)

Date of Order:17.10.2023

Gurjant Singh**.Appellant****Versus****State of Punjab and others****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL****Present: Mr. TPS Tung, Advocate, for the appellant.****Mr. Vikas Arora, AAG, Punjab****ANIL KSHETARPAL, J**

1. The correctness of the judgment passed by the First Appellate Court while reversing the judgment of the trial court is challenged by the plaintiff in this second appeal.

2. He filed a suit for grant of decree of declaration to the effect that the deduction of three increments from the pay of the plaintiff from the month of December, 1990 onwards is illegal, null and void. In substance, the appellant claims that his salary has been reduced from December, 1990.

3. The defendant-State while contesting the suit asserted that initially the plaintiff was appointed in the Soil Conservation Department, however after a while he became surplus and thereafter the department adjusted him as a Canal Patwari. In the beginning, he was appointed as Apprentice I.B.C., however, his pay was wrongly fixed at Rs.430/-, which was the grade revised from Rs.110 to Rs.400/- per month. Thus, the aforesaid error has been corrected but not as a measure of punishment.

4. The learned trial court decreed the suit filed by the plaintiff on

the ground that the impugned order has been passed without issuing any show cause notice or affording any opportunity of hearing to the appellant. However, the First Appellate Court has found that the plaintiff has failed to show that he was entitled to a salary @ Rs.430/- per month. It has been held that it was a mere case of correction of error and therefore the plaintiff has not suffered any prejudice.

5. The learned counsel representing the appellant while reiterating submits that the pay of the appellant could not be reduced without giving him an opportunity of hearing. He submits that after a period of 10 years the salary has been reduced which is not permissible.

6. This court has considered the submissions of the learned counsel representing the parties.

7. Even if the order was passed by the respondents without giving opportunity of hearing to the appellant, still the courts have already granted opportunity to the appellant to put forth his case. The rules of natural justice are required to be applied in order to advance the cause of justice and not to frustrate it. The principles of natural justice are a flexible tool in the hands of the courts to do substantive justice between the parties so that rights of both the parties are taken care of while dispensing justice. Merely a technical error cannot be made a ground to set aside an otherwise valid order. Reliance in this regard can be placed on the Supreme Court judgment passed in **State of U.P. vs. Sudhir Kumar Singh, 2020 SCC Online 847.**

8. Despite repeated requests, the learned counsel representing the appellant failed to draw the attention of the court to any material which proves that the plaintiff-appellant was entitled to salary @ Rs.430/- and not Rs.400/-. The First Appellate Court has also recorded this fact that the

learned counsel representing the appellant failed to establish that he was entitled to the salary of Rs.430/- per month.

9. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.
10. Dismissed, accordingly.
11. All the pending miscellaneous applications, if any, are also disposed of.

October 17, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO