

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(291-A)

RSA-4206-2000 (O&M)

Date of Decision : April 17, 2023

Punjab State Electricity Board

.. Appellant

Versus

Jit Singh

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pankaj Kundra, Advocate, for
Mr. Deepak Sabharwal, Advocate, for the appellant.

Mr. Sandeep Kumar Sharma, Advocate, for the respondent.

HARSIMRAN SINGH SETHI J. (ORAL)

Present Regular Second Appeal has been filed challenging the judgment and decree of the lower Appellate Court dated 27.07.2000 by which, the judgment and decree of the trial Court dated 30.07.1998 dismissing the suit filed by the respondent-plaintiff, has been set aside and the suit filed by the respondent-plaintiff has been allowed.

Certain facts are required to be mentioned for correct appreciation of the issue raised in the appeal:

It may be noticed that the suit was filed by the respondent-plaintiff seeking the benefit of proficiency step up after completion of 9 and 18 years of service which benefit was not granted to him on the ground that the respondent-plaintiff had remained out of service for a period of 8 years

starting from 02.06.1980 till 22.04.1988, which period according to the appellant-Corporation, could not have been taken into account for computing the period of 9/18 years of service for the grant of proficiency step up.

The suit filed by the respondent-plaintiff seeking the proficiency step up was dismissed by the trial Court vide judgment and decree dated 30.07.1998 but on the appeal preferred by the respondent-plaintiff, the judgment and decree of the trial Court was set aside and the respondent-plaintiff was held entitled for consideration of his case for the grant of proficiency step up, which judgment of the lower Appellate Court dated 27.07.2000 is under challenge in the present Regular Second Appeal.

Learned counsel for the appellant argues that the grant of benefit by the lower Appellate Court for considering the claim of the grant of proficiency step up to the respondent-plaintiff is bad as the respondent-plaintiff has actually not worked from the period 1980 till 1988 hence, the said period cannot be taken into consideration for any purpose much less for the grant of proficiency step up.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The argument raised by the learned counsel for the appellant, as noticed hereinbefore, cannot be accepted for the reason that though it is a conceded position that the respondent-plaintiff actually did not discharge the duties for the said period as his services were terminated but the competent Court of law while adjudicating the claim of the respondent-plaintiff qua the order of termination, has held that the termination order

dated 02.06.1980 is bad in law and directed the reinstatement of respondent-plaintiff in service with continuity. It is a conceded position that keeping in view the said judgment of the competent Court of law dated 11.12.1986, which judgment was upheld in appeal on 15.02.1988, the intervening period starting from 02.06.1980 till 22.04.1988, full back wages were extended in favour of the respondent-plaintiff, which wages have already been paid by the appellant-Corporation. Once the benefit of continuity of service has already been granted in favour of the respondent-plaintiff and even the wages have been paid for the period in question by treating the said period as a duty period, it cannot be said that for the purpose of the grant of proficiency step up, the said intervening period cannot be taken into consideration. By deeming fiction, it has to be treated that the respondent-plaintiff actually discharged the duties for the said period once, the salary for the period in question has been extended to the respondent-plaintiff.

Learned counsel for the appellant has not been able to dispute the said factual aspect.

Keeping in view the fact that the respondent-plaintiff was reinstated in service with continuity and back wages for the period from 02.06.1980 till 22.04.1988 by treating the same as duty period, hence, the said period is liable to be taken into account as duty period for the grant of proficiency step up and the judgment of the lower Appellate Court dated 27.07.2000 is perfectly valid and is in accordance with law keeping in view the facts and circumstances of the present case and needs no interference at the hands of this Court and the appeal is accordingly dismissed.

CM-7976-C-2000

As the main appeal has been dismissed, present application also stands dismissed.

April 17, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No