

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(289)

RSA No. 2164 of 2022 (O&M)

Date of Decision : 11.05.2023

State of Haryana and others

...Appellants

Versus

Dhanpat Ram

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, Assistant Advocate General, Haryana
for the appellants.

Mr. Amit Kaith, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

1. In the present regular second appeal, the challenge is to the judgment and decree of the lower appellate court dated 24.05.2022 by which, the suit filed by the respondent-plaintiff seeking the equivalence of pay with his juniors, had been allowed.

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

3. As per the judgments of the courts below, the respondent-plaintiff was appointed as a Conductor on 12.04.1972, whereas certain Conductors belonging to the reserved category were appointed after him. One Gurcharan Lal was appointed on 18.02.1973, Ravinder Singh was appointed on 19.05.1972 and Prahlad Singh was appointed on 07.05.1972. By granting the benefit of reservation, Gurcharan Lal was promoted to the post of Sub Inspector on 23.02.1990, Ravinder Singh got promotion on 14.03.1990 and Prahlad Singh got promotion on 21.02.1990. Thereafter,

Gurcharan Lal and Prahlad Singh were promoted as Inspector on 26.06.1996 and Ravinder Singh was promoted on the said post on 28.06.1996.

4. On his own turn on the basis of seniority, the respondent-plaintiff got promoted as Sub Inspector on 31.10.2002 and thereafter was promoted on 17.10.2006. The grievance of the respondent-plaintiff was that he has already caught his juniors, who were promoted in preference to him by grant of benefit of reservation and he regained seniority over them in the cadre of Inspector, hence, he become entitled for the grant of equivalent salary as being extended to his junior employees, namely, Gurcharan Lal, Ravinder Singh and Prahlad Singh. As the said benefit was not being extended to the respondent-plaintiff, he filed a civil suit. In the civil suit, the claim was being resisted but it is the case of the respondent-plaintiff that in the year 2019 vide order dated 27.06.2019 he had already been given the benefit, which he was seeking in the suit but he failed to withdraw the suit and ultimately, the suit filed by him was dismissed. Though, the benefit being claimed in the suit was already given to him and under the impression that the extended benefit will be withdrawn after the dismissal of the suit, the respondent-plaintiff filed an appeal against the judgment and decree of the trial court, which came to be allowed on 24.05.2022, hence, the present regular second appeal.

5. Learned counsel for the appellants-defendants argues that the respondent-plaintiff was already drawing the salary more than his juniors at the time when he was working as an Inspector. That being so, then the appellants-defendants should not be aggrieved against the decision of the

lower appellate court, according to which, the only direction given is that the respondent-plaintiff be given salary equivalent to his juniors. In case, according to the appellants-defendants, the respondent-plaintiff was already getting more salary at the time of retirement in the cadre of Inspector, there should not be any grievance so as to file the present appeal. Even otherwise, it has not been denied by the respondent-plaintiff during the hearing today that the respondent-plaintiff had already been given the benefit claimed in the suit vide order dated 27.06.2019. That being so, the present appeal has already been rendered infructuous as the appellants-defendants themselves had extended the benefit being claimed by the respondent-plaintiff in the suit.

6. Faced with this situation, learned counsel for the appellants submits that in case, any execution is filed, appellants be given liberty to project that the judgment already stands complied with to the effect that the respondent-plaintiff was already getting more salary than his juniors.

7. Ordered accordingly.

8. The present regular second appeal is being disposed of having been not pressed with liberty to raise all the objections before the Executing Court, in case any such execution is filed claiming the benefit of the judgment of the lower appellate court.

CM-7403-C-2022

As the main appeal is disposed of, the present application also stands disposed of.

May 11, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

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