

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102+216)

RSA-754-2016(O&M)

Date of Decision : 05.05.2023

Ramesh Kumar

...Appellant

Versus

XEN O.P. Divisional, Jhajjar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anand Singh, Advocate for the appellant.

Harsimran Singh Sethi J. (Oral)

CM-5636-C-2021

Application is allowed, as prayed for.

CM-5639-C-2021

As the main appeal is listed for today, the present application for early hearing of the RSA has been rendered infructuous.

RSA-754-2016

In the present regular second appeal, the challenge is to the judgment and decree of the lower appellate court dated 30.07.2015 by which, the judgment and decree of the trial court dated 25.04.2014 has been affirmed but with the modification that for the period for which the appellant-plaintiff remained out of service, no back wages will be granted to him.

Learned counsel for the appellant-plaintiff has raised only one argument that the appellant-plaintiff is not aggrieved against the action of the lower appellate court in denying the arrears of salary for the period he remained out of service but even the said period is not being taken into

account for the grant of increment and retiral benefits, which is contrary to the judgment and decree of the trial court, duly upheld by the lower appellate court.

Qua the argument raised, though no opinion of this Court is required but for the sake of clarification, it may be noticed that upon reinstatement in service, as per the decree of the courts below the appellant-plaintiff will be entitled for all the benefits by treating him to be in continuous service from the date of his appointment till the date of his retirement and he will be granted all the benefits including increments for the period he remained out of service notionally and his total length of service from the initial date of appointment till his retirement will be treated as qualifying service for computing the pensionary benefits. The only benefit for which the appellant-plaintiff will not be entitled for, will be the grant of arrears of salary for the period the appellant-plaintiff remained out of service.

Learned counsel for the appellant-plaintiff submits that keeping in view the said clarification, the present appeal may kindly be disposed of having been not pressed any further.

Ordered accordingly.

CM-2060-C-2016 and CM-2061-C-2016

As the main appeal is disposed of, the present applications also stand disposed of.

May 05, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No