

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-3398-C-2023 in/&
RSA-2533-2017 (O&M)
Date of Decision :24.04.2023

Ram Niwas

....Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashwani Gaur, Advocate for the appellant.

Ms. Vibha Tewari, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

CM-3398-C-2023

Present application has been filed for fixing the main regular second appeal for an actual date of hearing.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed and the main regular second appeal is taken up for hearing today itself with the consent of the learned counsel for the respondent-State.

RSA-2533-2017

Present regular second appeal has been filed challenging the judgment and decree of the trial Court dated 08.09.2014 by which, the suit filed by the appellant-plaintiff claiming the benefit under the Assured Career Progression Scheme (hereinafter referred to as "ACP Scheme") was

dismissed as well as the judgment and decree of the lower Appellate Court dated 21.09.2016 by which, the appeal preferred by the appellant-plaintiff against the judgment and decree of the trial Court dated 08.09.2014, was also dismissed.

Learned counsel for the appellant argues that the Courts below have not appreciated the facts in a correct perspective to hold that the appellant is not entitled for the benefit under the ACP Scheme as being claimed and the findings recorded by the Courts below are perverse to the evidence and facts on record.

On being asked to point out as to which fact or evidence taken into account by the Courts below is perverse or incorrect so as to set aside the judgment and decree of the Courts below, learned counsel for the appellant has not been able to point out any perversity in the findings recorded by the Courts below.

On the other hand, learned counsel for the respondent-State submits that in the present case, the claim of the appellant is only for the grant of benefit under the ACP Scheme, which benefit is only admissible in case, during the entire service career an employee has not been able to get three financial upgradation. Learned counsel for the respondent-State relies upon Rule 7.4 of the Haryana Civil Services (Assured Career Progression) Rules, 2008 (hereinafter referred to as Rule 7.4 of the ACP Rules).

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

It is a conceded position that aspect of the grant of benefit of ACP Scheme is governed by 2008 ACP Rules. Rule 7.4 of the 2008 ACP

Rules is as under:-

“In case of a Government servant who gets promoted, he will be considered for the next ACP grade pay after he completes 10 years of regular satisfactory service in the promotional post without any financial upgradation and will be entitled to the next ACP grade pay with reference to the grade pay of the promotional post he hold:

Provided that a Government servant shall not be entitled to avail ACP upgradation if, he was already availed of three financial upgradation of any kind in his career.”

Now the question arises as to whether during the service career, appellant-plaintiff had got three financial upgradation or not. It has already come on record that on 04.09.1992, appellant-plaintiff got promotion as Assistant Revenue Clerk in the pay scale of Rs.1250-2400 and, thereafter, on completion of 20 years of service on higher standard pay scale of Rs.1400-2600 was given w.e.f. 26.10.1994 and, thereafter, he got promotion as Zildar on 29.12.1995 in the pay scale of Rs.1600-2900, which fact is conceded by the appellant-plaintiff.

Once, the facts mentioned hereinbefore are conceded by the appellant-plaintiff that he had got three financial upgradation in his service career, keeping in view the provision of Rule 7.4 of the 2008 ACP Rules no further claim of the appellant-plaintiff can be considered for further upgradations.

Learned counsel for the appellant-plaintiff has not been able to rebut the conceded position stated hereinbefore as well as relevant rule, which has been cited.

Keeping in view the fact mentioned hereinbefore, no perversity in the findings recorded by the Courts below could be pointed out by the

learned counsel for the appellant, no interference is called for by this Court
and the present regular second appeal is accordingly dismissed.

April 24, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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