

RSA-371-2019 (O&M)
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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

254 (02 cases)

RSA-371-2019 (O&M)
Date of Decision :15.03.2023

Balbir Kaur

...Appellant

Versus

State of Punjab and others

...Respondents

RSA-419-2019 (O&M)

Balbir Kaur

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashish Grover, Advocate for the appellant.

Mr. Gurvinder Singh, AAG, Punjab.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-790-C-2019

The present application has been filed for condonation of delay
of 29 days in re-filing the present appeal.

Keeping in view the averments made in the application, which

are duly supported by an affidavit, the application is allowed. Delay of 29 days in re-filing the present appeal is condoned.

CM-792-C-2019

Application is allowed as prayed for.

Main Appeal

By this common order, the above mentioned two appeals are being disposed of as both the appeals involve the same question of law and facts.

In the present regular second appeals, challenge is to the judgments and decrees of the Courts below by which, civil suit filed by the appellant-plaintiff seeking grant of benefit under the Assured Career Progression Scheme from the year 2002, after rendering 08 years of service and consequent benefit of 2nd ACP after rendering 14 years of service, has been declined.

Facts which led to filing of the civil suit by the appellant/plaintiff were that the appellant/plaintiff has joined as clerk with the Cooperative Department on 06.04.1992 and thereafter, was promoted as Senior Assistant. Under the ACP scheme, an employee having 08 years of service in his credit in a cadre is entitled for the grant of benefit of one increment in case the said employee fails to get promotion within the said period of 08 years. The said benefit of ACP was not extended to the appellant/plaintiff by the respondents in the year 2000 on completion of 08 years of his service but was ultimately granted to the appellant-plaintiff in the year 2006 keeping in view the service record of the appellant. Before the appellant-plaintiff could render 14 years of service in the cadre, she was

promoted to the higher rank.

Appellant-plaintiff filed a civil suit seeking grant of benefit of ACP from the year 2002 onwards and counting of her 09 years of service for the grant of 2nd ACP from the said date.

The trial Court keeping in view the facts and evidence, which had come on record, has held that under the criteria for the grant of benefit of ACP, an employee was required to have 50% good record to his credit and as in the year 2002, the appellant-plaintiff did not had 50% good record so as to entitle her for the benefit of ACP and it was only in the year 2006 she got 50% good record due to which, she was granted the benefit of 1st ACP in the said year but before she could complete 09 years of service for the grant of benefit of 2nd ACP from the year 2006, she had already got promoted to the higher rank hence, the said relief was declined.

Against the judgment of the trial Court dated 13.09.2017, two appeals were filed. One by the appellant-plaintiff being aggrieved against the non-grant of benefit of ACP from the year 2002 onwards as well as non-grant of benefit of 2nd ACP and the second appeal was filed by the State for the grant of benefit of ACP to the appellant-plaintiff from the year 2004 instead of 2006.

The Lower Appellate Court vide order dated 06.07.2018 accepted the appeal filed by the State to the effect that a direction of the trial Court that the appellant was entitled for the grant of benefit of ACP from 2004 was contrary to the facts on record as well as the rules governing the service and the appeal filed by the appellant-plaintiff qua the grant of benefit of 2nd ACP as the State appeal had already been accepted even qua

the grant of benefit of 1st ACP from 2006 instead of 2004 was rejected.

Hence, the present regular second appeals.

Learned counsel for the appellant argues that the appellant-plaintiff was entitled for the grant of benefit of 1st ACP from 2002, which has wrongly been declined by the Lower Appellate Court though, accepted by the trial Court to be given from the year 2004. Learned counsel for the appellant further argues that in case, the appellant is found entitled for the benefit of 1st ACP from 2002, he becomes entitled for consequential benefit of 2nd ACP as well before the promotion of the appellant to the higher rank.

On being asked as to point out evidence/rule to prove the entitlement of the appellant-plaintiff to get the benefit of ACP from the year 2002, learned counsel for the appellant-plaintiff has not been able to show that under the rules governing the services for the grant of ACP, the appellant-plaintiff was entitled for the said benefit keeping in view her service record. It is a conceded position that an employee should have 50% good record to get the benefit of ACP, which the appellant-plaintiff did not had in the year 2002 or even in the year 2004. That being so, no grievance can be raised by the learned counsel for the appellant-plaintiff qua the judgment and decree of the Courts below by which, the benefit of 1st ACP w.e.f. 2002 has been declined. Learned counsel for the appellant-plaintiff has not been able to point out any perversity in the judgment and decree of the Lower Appellate Court so as to modify the judgment of the trial Court dated 13.09.2017.

No other argument has been raised.

Keeping in view the above, no interference is called for by this

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Court and the both the regular second appeal are accordingly dismissed.

Photocopy of this order be placed on the file of connected case.

March 15, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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