

RSA-1649-1993

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(202)

RSA-1649-1993
Date of decision:- 12.01.2024

Surjit M.G. Singh

... Appellant

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Pawan Kumar Goklaney, Advocate
for the appellant.

Ms. Niharika Sharma, DAG, Punjab
for the respondents.

SUVIR SEHGAL, J. (ORAL)

1. By way of instant second appeal, plaintiff-appellant, who was working as Superintendent, State Protection Home, Amritsar, has approached this Court for setting aside the judgment and decree dated 02.04.1993 passed by the Lower Appellate Court.
2. Facts, in brief, may be noticed.
3. Prior to her promotion, plaintiff-appellant was working as a House Mistress. By way of revision, pay scale of Assistant Superintendent were revised to Rs. 620-1200 w.e.f. 01.01.1978. Claiming that the pay of House Mistress and Assistant Superintendent were equal, she sought an upward revision of her pay. She averred that she was posted as Assistant Superintendent and was ignored whereas Chander Kala, Assistant

RSA-1649-1993

-2-

Superintendent was granted the revised pay scale. Another claim was raised by her that she was entitled to earned leave from November, 1984 to April, 1985, but it was not sanctioned and she was granted leave without pay. She filed the civil suit for declaration for revision of pay and completion of service book after sanctioning the leave to which she is entitled.

4. Upon notice, defendant/respondent-State contested the suit by raising various preliminary objections. It was submitted that the pay scale of House Mistress in the Department of Education (Schools) was revised on the recommendation of the Pay Commission, but there were no such revision in the plaintiff's department and therefore, she could not be granted the equivalent scale. A stand was taken that a higher pay scale was erroneously given to Chander Kala and recovery has been effected from her. It has been submitted that when the plaintiff-appellant was promoted to the post of Superintendent, she was granted the higher pay scale. In so far as her second claim is concerned, it was submitted that she was granted extra ordinary leave from 12.11.1984 to 30.04.1985. The stand of the defendant-respondent was controverted by the plaintiff-appellant by filing a replication. After the issues were framed and parties led evidence, the Trial Court by judgment and decree dated 11.05.1992, accepted both the claims and decreed the suit. However, in appeal, preferred by the defendant-respondents, the judgment and decree of the Trial Court was reversed. That is how the plaintiff is in a second appeal before this Court.

5. I have heard counsel for the parties and examined the record with their able assistance.

RSA-1649-1993

-3-

6. It is evident from the record that Chander Kala had been inadvertently given a higher pay scale, which was later on withdrawn and recovery was effected from her. Merely, erroneous grant of a pay scale to an employee would not vest any right in the plaintiff-appellant to claim the same benefit. Furthermore, plaintiff-appellant has not been able to produce any document to show that the post of Housemistress and Assistant Superintendent were equivalent or that the employees on both the posts were discharging similar duties and responsibilities or that the qualification etc. for the both the posts was the same. Equivalence in pay scale is dependent upon a number of factors such as mode of appointment, academic qualifications and experience for the posts, the nature of duties and functions to be discharged by the incumbents etc. In any case, it is for the expert body like the Pay Commission to examine the various factors and to grant equivalence in the pay scale. Reliance in this regard may be placed upon the judgments of the Supreme Court in ***Government of West Bengal Versus Tarun K. Roy (2004) 1 SCC 347; State of Haryana Versus Haryana Civil Secretariat Personnel Staff Association (2002) 6 SCC 72; Union of India Versus Pradip Kumar Dey (2000) 8 SCC 580; S.C.Chandra and others Versus State of Jharkhand and others (2007) 8 SCC 279; and Union of India Versus Rajib Khan and others (2023) SCC Online SC 28.*** No material has been brought on the record by the plaintiff to satisfy any of the tests laid down by the Supreme Court in the catena of judgments. Furthermore, it cannot be disputed that the plaintiff-appellant was granted the higher pay scale on her promotion to the post of Superintendent.

RSA-1649-1993

-4-

7. In so far as the second relief claimed by her is concerned, it is a settled position in law that an employee cannot proceed on leave without getting it sanctioned from the competent authority. Plaintiff-appellant has claimed that there was some earned leave due to her credit, but she has not produced any material to substantiate the plea. Record shows that she was granted the leave to which she was found entitled and has been paid salary, which is due to her.

8. This Court does not find any infirmity or illegality in the judgment and decree passed by the Lower Appellate Court, which deserves to be upheld. Resultantly, there is no merit in the appeal, which is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

12.01.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No