**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**RSA-157-1994**
**Date of order:-10.04.2024**

Krishan Chand Verma

...Appellant

Versus

Punjab State Electricity Board, Patiala

...Respondent

**CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL**

**Present** :- Mr.R.S. Randhawa, Advocate with
Mr.Aditya Partap Singh, Advocate
for the appellant.

Mr.R.S. Kalra, Advocate
for the respondent.

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**SUVIR SEHGAL, J.(ORAL)**

1. Plaintiff - appellant is before this Court by way of the instant second appeal challenging the concurrent findings recorded by both the Courts below.

2. Brief facts may be noticed. Plaintiff – Krishan Chand Verma had filed a suit for declaration and for permanent injunction pleading that he had been granted 100% Generation Incentive vide order dated 10.06.1985 under an order passed by the Chief Engineer/General Manager, Ropar Thermal Project as the plaintiff was performing extra duties and discharging additional responsibilities. He remained posted with the Ropar Thermal Project till 17.06.1988. When he came to know that the defendants are in the process of effecting recovery, he filed a

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suit for declaration. Upon notice, defendants contested the suit by filing a written statement wherein it has been submitted that the plaintiff belongs to the Clerical Cadre and as he has never discharged duties of technical nature, he is not entitled to 100% Generation Incentive. It has been submitted that the plaintiff was getting 60% incentive as per his entitlement. A stand has been taken that the General Manager/Chief Engineer was not competent to pass an order for increase of 100% incentive and recovery of Rs.18,626.50 is to be effected from the plaintiff. On the basis of the pleadings of the parties, issues were framed and after they led evidence, the trial Court by judgment and decree dated 06.04.1992 dismissed the suit. Findings recorded by the trial Court were affirmed in appeal by judgment dated 07.01.1994 passed by Additional District Judge, Patiala, resulting in the institution of the present appeal by the plaintiff.

3. I have heard counsel for the parties and considered their respective submissions as well as examined the record with their able assistance.

4. Para 2 of Order bearing No.379/Fin-385 dated 06.04.1985, Ex.P3, which provides for grant of Generation Incentive w.e.f. 01.01.1985, is as under:

> *"(2) The payment of incentive to Group-II, (Non-Operative Staff) will be 60% of the Incentive admissible to Group-I (Operative Staff)."*

5. Plaintiff was working on the post of Personal Assistant to the Chief Engineer and falls in the category of Ministerial Staff in the

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office of Chief Engineer. It has not been disputed that the plaintiff will fall in the category of non-operative staff. In view of the above re-production, he was, therefore clearly not entitled to the 100% Generation Incentive. Rather, his entitlement is 60% incentive, which is being drawn by him. This Court is, therefore, of the view that there is no error in the judgments passed by both the Courts below.

6. The other contention raised by the counsel for the appellant is that the recovery could not have been effected without providing any show-cause notice or opportunity to the appellant. This Court does not intend to go into this argument as this plea has not been taken by him in his plaint nor any issue has been framed on it.

7. As a result of the above discussion, this Court is of the firm view that the reasoning given by the Courts below does not call for any interference and the judgments and decrees of both the Courts deserve to be upheld.

8. Finding no merit in the appeal, it is hereby dismissed with no order as to costs.

**(SUVIR SEHGAL)**
**JUDGE**

**10.04.2024**
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**Whether reasoned/speaking : Yes/No**
**Whether reportable : Yes/No**

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