

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208

RSA-1583-1995 (O&M)
Decided on :12.01.2024

Headmistress, Govt. Girls high School, Fatehabad and anr. . . . Petitioners

Versus

Jeet Kaur and another . . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Saurabh Mohunta, DAG, Haryana.

Mr. H. C. Arora, Advocate with
Ms. Sunaina, Advocate and
Ms. Jasleen Kaur Chhibber, Advocate
for respondents No. 1 & 2.

HARSIMRAN SINGH SETHI , J. (Oral)

1. The present regular second appeal has been filed by the appellants to challenge the judgment and decree passed by Lower Appellate Court on 04.04.1995 by which the judgment and decree of the trial Court had been set-aside and the suit filed by the respondent-plaintiffs was allowed.
2. Certain facts needs to be mentioned for correct appreciation of the issue in hand.
3. The respondent No. 1- plaintiff (Jeet Kaur), was working as a teacher in the Education department of the Government of Haryana and she

was getting fixed medical allowance of Rs. 45/- per month. The husband of respondent-plaintiff, namely, Ram Chander Monga (respondent No. 2) was also working in the State Bank of India and getting the fixed medical allowance. But starting from the month of January, 1992, the fixed medical allowance qua the respondent-plaintiff was stopped by the appellant-State which was challenged by the respondent-plaintiff by filing of a civil suit.

4. The said civil suit was defended by the defendant-State (appellant herein) on the ground that where, the both spouse are in job, only one of them can get the benefit of fixed medical allowance hence, as the husband of the respondent-plaintiff was already getting the fixed medical allowance, the respondent-plaintiff was not entitled to get the said benefit of fixed medical allowance.

5. The reliance was being placed upon the instructions which were issued by the respondents on 17.07.1992 which came into being w.e.f. 01.06.1992 and later the same was amended on 02.12.1992.

6. The trial Court keeping in view the evidence which came on record, concluded that keeping in view the instructions dated 17.07.1992 which have been issued by the respondents-State according to which only one of the spouse was entitled for the grant of the fixed medical allowance of Rs. 45/- per month, as, the husband of respondent-plaintiff was also in job and was already granted the benefit of fixed medical allowance, the respondent-plaintiff is not entitled for the said benefit and same has rightly been stopped. The suit filed by the respondent-plaintiff was dismissed by the trial Court vide judgment and decree dated 24.12.1992.

7. Feeling aggrieved with the said decision of the trial Court, the respondent-plaintiff preferred an appeal which came to be decided by the lower appellate Court on 04.04.1995 and the judgment and decree of the trial

Court was set-aside and the suit filed by the respondent-plaintiff was allowed.

8. The said judgment and decree of the lower appellate Court is under challenge in the present regular second appeal.

9. Learned counsel for the appellant-State submits that the lower appellate Court has set-aside the judgment and decree passed by the trial Court without appreciating the actual facts in correct perspective.

10. Learned counsel for the appellant-State submits that even if the arguments which have been accepted by the lower Appellate Court that the fixed medical allowance of the respondent-plaintiff was stopped in January, 1992 whereas the instructions in question according to which only one of the spouse is to be paid the fixed medical allowance in case both the spouse are in job came into being w.e.f. 01.06.1992, then also, the only benefit of the fixed medical allowance can be granted to the respondent-plaintiff starting from January 1992 till May 1992, whereas, the suit filed by the respondent-plaintiff has been allowed in totality so as to grant the benefit of fixed medical allowance even after the operation of the instructions dated 17.07.1992 which came into being w.e.f. 01.06.1992. Hence, the judgment and decree of the lower Appellate Court is liable to be set aside.

11. Learned counsel for the respondents submits that once the action of stopping the fixed medical allowance was without any jurisdiction as the same was not supported by any of the Instructions issued by the Government, the judgment and decree of the lower Appellate Court is perfectly valid and legal and is liable to be upheld.

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

13. It is a settled principle of law that any benefit claimed can only

be granted to an employee keeping in view the rules, regulations and instructions issued by the Government in that regard.

14. It is a conceded fact between the parties that as per the instructions dated 17.07.1992, the fixed medical allowance was to be paid to only one of the spouse in case both are in job. It is also a conceded fact that as per the instructions dated 17.07.1992 which came into being on 01.06.1992 and later on amended on 02.12.1992, either the respondent-plaintiff or the husband of respondent-plaintiff was entitled for the benefit of fixed medical allowance.

15. Keeping in view the facts mentioned herein above, the only relief which can be granted to the respondent-plaintiff was to grant her the fixed medical allowance for the period when the same was stopped in January, 1992 upto 31.05.1992 as the instructions dated 17.07.1992 came into operation w.e.f. 01.06.1992

16. At this stage, learned counsel for the respondents submits that even as per the instructions dated 17.07.1992 one of the spouse is entitled for getting the fixed medical allowance and nothing has come on record that husband of the respondent-plaintiff was getting the same and the said benefit was stopped as the respondent-plaintiff failed to submit the affidavit as required under the instructions dated 17.07.1992 that her husband is not getting any fixed medical allowance.

17. Learned counsel for the appellant-State has not been able to rebut the said stand of the learned counsel for the respondents that keeping in view the evidence available on record it is proved that the husband of the respondent-plaintiff was also getting the fixed medical allowance so that the said benefit can be stopped qua the respondents-plaintiff starting from 01.06.1992 on-wards.

18. That being the factual position, the present appeal is disposed of with the directions that in case the respondent-plaintiff files an affidavit that starting from 01.06.1992 her husband was not getting any fixed medical allowance during his employment and the same was only being claimed by her, the respondent-plaintiff is held entitled for the fixed medical allowance till her retirement.

19. The present appeal stands disposed of in above terms and conditions.

20. Pending miscellaneous application, if any, also stands disposed of.

12.01.2024

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No

(HARSIMRAN SINGH SETHI)

JUDGE