

RSA-2036 of 1995

2024:PHHC:074742



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

RSA-2036 of 1995

Date of decision: 24.05.2024

Surmukh Singh Gill

.....Appellant

Versus

Secretary to Govt. Punjab, Department of Animal Husbandry &
Fisheries, Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Dhiraj Chawla, Advocate,
for the appellant.

Mr. Surya Kumar, AAG, Punjab,
for respondents No.1 and 2.

Respondent No.3 proceeded ex parte
vide order dated 08.12.1995.

NAMIT KUMAR, J.

1. Unsuccessful plaintiff has approached this Court by way of present Regular Second Appeal, assailing the judgment and decree dated 03.06.1993, passed by the Court of learned Sub Judge, Class II, Chandigarh, whereby his suit for declaration was dismissed as well as the judgment and decree dated 02.06.1995, passed by the Court of learned Additional District Judge, Chandigarh, whereby appeal filed by him against the judgment and decree of the trial Court was also dismissed.

2. Brief facts of the case are that appellant-plaintiff filed a suit for declaration to the effect that he is entitled to two increments

RSA-2036 of 1995

2024:PHHC:074742



which he was drawing since year 1981 for acquiring higher qualification with arrears of increment with consequential relief that the order dated 20.01.1992, vide which his increments were withdrawn, be declared null and void and for restraining the respondents-defendants from deducting the increment with arrears. The trial Court after appreciating the evidence on record dismissed the suit of the appellant-plaintiff vide judgment and decree dated 03.06.1993. Aggrieved against the judgment and decree of the trial Court, appellant preferred an appeal, which was also dismissed by the lower appellate Court vide judgment and decree dated 02.06.1995. Hence, the instant Regular Second Appeal by the appellant-plaintiff.

3. Learned counsel for the appellant contended that judgments and decrees of the Courts below are not sustainable in the eyes of law. He contended that both the Courts failed to appreciate that the appellant obtained higher qualification of M.Sc. before entering into Government service, therefore, he is entitled to the benefit of two increments. He further contended that appellant was granted the benefit of advance increments in conformity with the condition stipulated in the order dated 01.10.1981 and appellant satisfied all the requisite conditions, therefore, there was no occasion for the respondents-defendants to withdraw the said benefit. He further contended that judgments and decrees of the Courts below being based on surmises and conjectures are liable to be set aside.

4. *Per contra*, learned State counsel contended that the judgments and decrees of the Courts below are perfectly legal and

RSA-2036 of 1995

2024:PHHC:074742



valid. He contended that benefit of *ad hoc* service rendered by the appellant was given to him only for leave and increments and the higher qualifications having not been acquired during the period of service was not to be recognised for grant of advance increment.

5. I have heard learned counsel for the parties and perused the record.

6. Admittedly, the appellant joined the service of the respondents-defendants on 03.08.1966 on *ad hoc* basis and his services were dispensed with on 17.10.1967. At that time he was having the qualification of B.Sc. Zoology. He again joined the services under the respondents-defendants on 11.12.1970 and at that time his qualification was M.Sc. Zoology. He was granted the benefit of *ad hoc* service rendered by him for leave and increments as per Government instructions. Vide memo dated 28.09.1973, Government of Punjab decided to grant 2/3 advance increments to the Fisheries Officers who acquired the qualification of M.Sc. Zoology/P.hd Zoology, respectively subject to certain conditions. Perusal of the record shows that the benefit of advance increments was wrongly granted to the appellant vide order dated 01.10.1981 as the Punjab Government vide circular dated 15.05.1980 had withdrawn its decision to give advance increments on acquiring higher qualification. Therefore, the advance increments wrongly granted to the appellant were thereafter retrospectively rightly withdrawn vide order dated 23.12.1991 (Ex.D/4) after giving show-cause notice dated 30.08.1990 to him and considering his reply.

RSA-2036 of 1995

2024:PHHC:074742



7. Concurrent findings have been recorded by both the Courts below and learned counsel for the appellant has failed to show that the same are perverse or illegal or based on misreading, non-reading or mis-appreciation of the material evidence on record.

8. In view of above, no question of law, muchless substantial question of law arises for consideration in the present appeal. No other point has been urged.

9. Dismissed.

10. Pending application(s), if any, stand disposed of accordingly.

24.05.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No