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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(220)

RSA-2484-1995

Date of decision:- 29.01.2024

State of Punjab and another

... Appellants

Versus

Ajmer Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vikas Arora, AAG, Punjab
for the appellants.

None for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. Defendants-appellants are before this Court in the present second appeal challenging the judgments and decrees passed by both the Courts below.
2. Brief facts may be noticed. Ajmer Singh, plaintiff-respondent, retired from the post of Superintendent on 30.11.1984. He claimed that on the basis of the recommendations of the Second Pay Commission, as notified by Government of Punjab vide memo dated 22.12.1980, pension and family pension formula was liberalised and these benefits were to be granted on the basis of scales of pay revised w.e.f. 01.01.1978. However, by notification dated 09.07.1985, Government specified cut-off date as 31.03.1985 and he could not get the revised benefits. He challenged the fixation of cut-off date by filing a suit for declaration to the effect that the fixing of cut-off date is discriminatory and violative of Article 14 of the

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Constitution of India and that he is entitled to the revised pensionary benefits, besides interest.

3. Upon notice, defendants-appellants filed a written statement and contested the suit on various grounds. An objection was taken that the suit is barred by limitation and is not maintainable. A stand was taken that as the plaintiff-respondent had retired from service prior to the cut-off date, he was not entitled with the revised benefits. It was further submitted that the classification between the retirees has been made on the basis of cut-off date, which has been specified in the notification. Plaintiff-respondent filed a replication controverting the stand taken in the written statement. On the basis of pleadings of the parties, issues were framed and after the parties led evidence, Trial Court by judgment and decree dated 08.10.1990, decreed the suit. Defendants-appellants remained unsuccessful in the first appeal, which was rejected on 30.05.1995, resulting in the institution of the present appeal.

4. I have heard the State counsel and examined the record with his able assistance.

5. The controversy, which has come up for determination before this Court, has been settled by the Supreme Court in ***State of Punjab and others Versus Boota Singh, 2000 (3) SCC 733***, which has been followed in ***State of Punjab Versus J.L.Gupta, 2000 (3) SCC 736***. The observations of the Apex Court in ***J.L.Gupta's*** case (supra) deserve to be noticed and are reproduced hereunder:-

“4. In Boota Singh's case it has also been held that the benefit conferred by the notification dated 9th July, 1985

can be claimed by those who retire after the date stipulated in the notification and those who have retired prior to the stipulated date in the notification are governed by different rules. They are governed by the old rules, i.e., the rules prevalent at the time when they retire. The two categories of persons are governed by different sets of rules. They cannot be equated. The grant of additional benefit has financial implications and the specific date for the conferment of additional benefits cannot be considered arbitrary. It was further held that:

*"In the case of **Indian Ex-Services League & Ors. Vs. Union of India & Ors. Etc. (1991) 2 SCC 104** this Court distinguished the decision in Nakara's case (supra) and held that the ambit of that decision cannot be enlarged to cover all claims by retirees or a demand for an identical amount of pension to every retiree, irrespective of the date of retirement even though the emoluments for the purpose of computation of pension be different. We need not cite other subsequent decisions which have also distinguished Nakara's case (supra). The latest decision is in the case of **K.L. Rathee Vs. Union of India & Ors. (1997) 6 SCC 7** where this Court, after referring to various judgments of this Court, has held that Nakara's case cannot be interpreted to mean that emoluments of persons who retired after a notified date holding the same status, must be treated to be the same. The respondents are not entitled to claim benefits which became available at a much later date to retiring employees by reason of changes in the rules relating to pensionary benefits."*

5. *The controversy involved in the present appeal and connected appeals is squarely covered by the aforesaid decision. The respondents are thus not entitled to claim benefits under the notification dated 9th July, 1985 since the said benefits became available on a much later date to the retiring employees by reason of change in rules relating to pensionary benefits. In this view, the judgment of the High Court cannot be sustained.”*

6. The matters before the Supreme Court had arisen out of the same notifications as are in question in the present appeal and this Court is bound by the decisions of the highest Court of country.

7. In view of the above, finding recorded by the Courts below cannot be sustained and are reversed. Appeal by the defendants-appellants is accepted and the suit by the plaintiff-respondent is dismissed with no order as to costs.

29.01.2024
Kamal

(SUVIR SEHGAL)
JUDGE

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