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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of decision:15.01.2024

KISHORI LAL (SINCE DECEASED) THROUGH HIS LRS
... APPELLANT

VS.

STATE OF PUNJAB AND ORS. ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gurcharan Dass, Advocate
for the appellant.

Mr. Vikas Arora, AAG, Punjab,
for the respondents.

SUVIR SEHGAL J. (ORAL)

1. Plaintiff-appellant is before this Court by way of second appeal.
2. Brief facts may be noticed.
3. Plaintiff-appellant was working as a Mechanical Fitter and retired on 30.09.1985 after completing 32 years of service in the Department of Industrial Training and Technical Education. As per his pleadings, he joined service as Oil Man Cleaner on 20.08.1953 in the grade of Rs.50-100/- and upon abolition of the post, he was transferred to a government institute against the post of Mechanical Fitter in the

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same grade, which was revised with effect from 01.02.1968, but it was not granted to him despite recommendation. He submitted a representation, which was rejected by defendant-respondent No.1 on 17.12.1976. Claiming the benefit of pay revision as well as selection grade with effect from 01.01.1978 and counting of the period from 1953 to 1962 towards pensionary benefit, he filed a civil suit for declaration as well as mandatory injunction. Upon notice, suit was contested by the defendant-State on various grounds including the ground that it is barred by limitation. It was submitted that the period from 1962 to 1967 has been counted for qualifying service and pensionary benefits have been paid. A stand has been taken that the Mechanical Fitter was awarded scale of Rs.140-300, which is equivalent to that of Technician Grade-IV and requires a matriculation degree and two years ITI certificate, which the plaintiff-appellant did not possess. Replication was filed by the plaintiff, controverting the stand taken by the defendant-respondent.

4. Upon framing of issues and after the parties led evidence, the Trial Court by judgment and decree dated 20.08.1992 dismissed the suit as barred by time. Appeal filed by the plaintiff-appellant was partly accepted by learned Additional District Judge, Ludhiana, by judgment and decree dated 16.09.1995 holding that he is entitled to count the ad-hoc service rendered by him from 20.08.1953 to 31.07.1962 for the purposes of computation of pension. The claim for pay revision was, however, rejected.

5. Counsel for the parties have been heard and the record has been perused with their able assistance.

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6. Record shows that the appellant submitted some more representations before instituting the civil suit and one of them rejected on 02.07.1985. Although, counsel for the appellant has contended that he has a continuing course of action but he could not dispute that orders passed by the authorities in 1976 and 1985 were never challenged in the civil suit. In the absence of challenge to the rejection orders, the decree as prayed for by the plaintiff-appellant could not be granted.

7. For the afore-going reason, this Court does not find any merit in the appeal, which is hereby dismissed.

15.01.2024

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(SUVIR SEHGAL)
JUDGE

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