



RSA-3013-2019 (O&M)

RSA-949-2019 (O&M)

-2-

litigation.

2. Certain facts needs to be mentioned for the correct appreciation of the issue in hand.

3. Plaintiff-Gobind Singh whose substantive rank was junior Librarian was asked to discharge the duties of the post of senior Librarian w.e.f. 18.10.2005 and he continued discharging the duties of the said post until he attained the age of superannuation and retired in February, 2012. After retirement, a civil suit was filed by the plaintiff-Gobind Singh in January, 2015 claiming that as he had worked on the post of senior Librarian upto to the date of his retirement, he should be given salary of the post of senior Librarian from the date he discharged the duties of the said post and even his pensionary benefits be calculated on the basis of the last salary drawn by him.

4. The trial Court considered the evidence and the facts, which had come on record and ultimately, vide judgment and decree dated 02.08.2017 the trial Court granted the relief to the plaintiff-Gobind Singh that as the civil suit has been filed after the retirement, plaintiff-Gobind Singh will only be entitled for salary of the post of senior Librarian for the period of 03 years and two months preceding the date of filing of the said civil suit along with interest @ 12% per annum w.e.f. 12.11.2014 till its payment by the defendants to the plaintiff.

5. Against the judgment and decree of the trial Court dated 02.08.2017, two appeals were filed. One by the State and another by the

**RSA-3013-2019 (O&M)****RSA-949-2019 (O&M)****-3-**

plaintiff-Gobind Singh as his claim for the grant of entire salary of the post of senior Librarian from the year 2005 was not granted to him and he was also not given pensionary benefits on the basis of the last pay drawn by him as senior Librarian though, he was working on current duty charge at the time of his retirement. The lower Appellate Court vide judgment and decree dated 08.12.2018 dismissed both the appeals upholding the judgment and decree of the trial Court hence, the present two regular second appeals.

6. Learned counsel for the plaintiff-Gobind Singh argues that once, it is a conceded fact that plaintiff-Gobind Singh had discharged the duties of the post of senior Librarian starting from 2005 till he retired from service, he should have been given salary for the entire period he worked on the said post and not only for a period of 03 years and 02 months as the same is a recurring cause.

7. The said argument cannot be accepted. Plaintiff-Gobind Singh continued worked on the post of senior Librarian as current duty charge on the basis of the salary of the substantive rank and he did not agitate till he retired in February, 2012. A civil suit was filed by the plaintiff-Gobind Singh approximately three years after the retirement. Though, the trial Court upheld the claim that an employee who was discharging the duties of the higher post is entitled for the salary of the said post but the benefit of arrears was only given for the period which was within the period of limitation to be claimed as the suit had become time barred for a period from 2005 onwards till 2014.

**RSA-3013-2019 (O&M)****RSA-949-2019 (O&M)****-4-**

8. The argument raised by the learned counsel for the plaintiff-Gobind Singh that the non-grant of salary is a recurring cause cannot be accepted. Once, the plaintiff-Gobind Singh was given a current duty charge on his own pay scale, if he was aggrieved against the same, he should have challenged the said order immediately but he challenged the same after the period of three years of his retirement hence, it is not a recurring cause and was only a service dispute that too qua the payment of salary, which could not have been claimed after the master and servant relationship had already come to an end, hence, the claim of the plaintiff-Gobind Singh that he should have been given full salary for the post of senior Librarian from 2005 onwards has rightly been declined by the Courts below in the facts and circumstances of the present case.

9. Learned counsel for the plaintiff-Gobind Singh further argues that the Courts below have not allowed the benefit of computing pensionary benefits of the plaintiff-Gobind Singh on the basis of the last drawn salary. It may be noticed that the benefit of last drawn salary only came in the year 2014 not when the plaintiff-Gobind Singh retired from service in the year 2012. Further, pensionary benefits are to be calculated keeping in view the substantive post held by an employee and it is a conceded position that substantive rank of the plaintiff-Gobind Singh is of the junior Librarian and not of senior Librarian and the pensionary benefits by treating him as a Junior Librarian have already been released to him hence, non-grant of the benefit by the Courts below for computing the pensionary benefits by

**RSA-3013-2019 (O&M)****RSA-949-2019 (O&M) -5-**

treating last drawn salary has rightly been declined by the Courts below.

10. Learned counsel for the respondent-State in support of their appeal submits that once, the plaintiff-Gobind Singh was not eligible to hold the post of senior Librarian, he could not have been granted salary of the said post.

11. Said argument is fallacious and cannot be accepted. Once, the respondents themselves gave the current duty charge of the post of senior Librarian to the plaintiff-Gobind Singh and the plaintiff-Gobind Singh continued discharging the duties of the said post, he is entitled for the salary of the said post and in case, plaintiff-Gobind Singh was not eligible to hold the post of senior Librarian, the respondents should not have even granted the charge of the said post to the plaintiff-Gobind Singh. In the facts and circumstances of the present case, where for a period of more than 07 years, plaintiff-Gobind Singh discharged the duties of the post of senior Librarian, the benefit of the salary of the said post keeping in view the period of limitation provided to claim the same, has rightly been granted by the Courts below.

12. No other argument has been raised.

13. Keeping in view the facts and circumstances recorded hereinabove as no perversity in the findings recorded by the Courts below has been pointed out, both the appeals preferred by the State as well as plaintiff-Gobind Singh are accordingly dismissed.



RSA-3013-2019 (O&M)
RSA-949-2019 (O&M) -6-

dismissed.

15. Photocopy of this order be placed on the file of connected case.

May 14, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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