2024:PHHC:074746

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1699 of 2015 (O&M)
Date of decision: 23.05.2024

Haryana State Agricultural Marketing Board

.....Appellant

Versus

Narain Dass

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Padam Kant Dwivedi, Advocate,
for the appellant.

None for the respondent.

NAMIT KUMAR, J.

1. This Regular Second Appeal is directed against the judgment and decree dated 26.10.2009, passed by the Court of learned Civil Judge (Senior Division), Panchkula, whereby suit of the respondent-plaintiff for declaration was decreed as well as against the judgment and decree dated 27.09.2011, passed by the Court of learned District Judge, Panchkula, whereby appeal filed by the appellant-defendant was dismissed.

2. Parties to the *lis* are being referred to as per their status before the trial Court. Brief facts of the case are that plaintiff filed a suit for declaration to the effect that he was initially appointed as Auction Recorder on 04.11.1969 in the Market Committee, Panipat, in the pay scale of Rs.60-100 which was revised to Rs.110-225. He was lastly posted as Mandi Supervisor in Market Committee, Gharaunda (Karnal) and retired on 31.01.2006 on attaining the age of

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superannuation. Pay scales of the post of plaintiff were further revised from time to time. Plaintiff was promoted as Mandi Supervisor by the defendant in the pay scale of Rs.525-1050 w.e.f. 09.08.1979 and he had joined as such w.e.f. 10.08.1979. It is further pleaded that the selection grade of Rs.480-760 was granted by the Board to the category of Auction Recorders vide order dated 05.01.1988 much after the promotion of the plaintiff from the post of Auction Recorder to that of Mandi Supervisor. When the pay of Bharat Bhushan, junior to plaintiff, was refixed and revised, he made representations from time to time for release of benefit of selection grade by revising his basic pay and lastly request was made on 25.10.2005, but, his request was not considered by the defendant. It was averred that he got served statutory notice dated 24.05.2006 under Section 31 of the Punjab Agricultural Produce Markets Act, 1961 upon defendant through lawyer, but to no avail. Hence, he filed the suit for declaration.

3. Upon notice, defendant appeared and filed written statement contesting the claim of the plaintiff, taking preliminary objections that the suit is time barred; the civil court has no jurisdiction to entertain and try the present suit; the plaintiff has no cause of action to file the present suit etc. On merits, it was submitted that the selection grade was granted to all the Auction Recorders /Clerks vide order dated 05.01.1988, which was duly circulated and implemented and all the eligible persons were granted the said benefit. It was emphasized that the plaintiff never raised any objection or approached the authorities for his grievance and as such the claim of the plaintiff is barred by

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limitation because no person can be allowed to sleep over a matter for more than 12 years and then come to seek relief. It was prayed that the suit be dismissed with costs.

4. Replication was filed by the plaintiff, in which he re-asserted the facts mentioned in the plaint and controverted those of the written statement.

5. From the pleadings of the parties, following issues were framed by the trial Court: -

1. Whether the plaintiff is entitled to sanction selection grade of Rs.400-700 w.e.f. 1.4.1979 and for refixation of his pay w.e.f. 2.4.1979 onwards from year to year with consequential benefits including re-computation of retiral benefits alongwith interest as prayed? OPP

2. Whether the suit is not maintainable in the present form nor the plaintiff has locus-standi to file the same? OPD

3. Relief.

6. After hearing the learned counsel for the parties and appreciating the evidence on record, trial Court decreed the suit of the plaintiff vide judgment and decree dated 26.10.2009. Aggrieved against the judgment and decree of the trial Court, defendants preferred an appeal, which has been dismissed by the lower appellate Court vide judgment and decree dated 27.09.2011. Respondent-plaintiff has also filed cross-objections before the lower appellate Court, which were also dismissed. Hence, present Regular Second Appeal by the defendants.

7. Learned counsel for the appellant while referring to the notice of motion order dated 18.08.2015 has stated at the bar that

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challenge in the appeal is made to the interest on the arrears of the amount, which is on higher side.

8. Having heard learned counsel for the appellant, this Court finds that the rate of interest of 12% granted by the Courts below is on the higher side, therefore the same is reduced to 6% from the date of accrual till the date of payment. Consequently, the judgments and decrees passed by the Courts below are modified to that extent.

9. The present appeal is disposed of in the above terms.

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

(NAMIT KUMAR)
JUDGE

23.05.2024
R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No

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