

2024.PHHC:172260



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

202

**RSA-3136-2015 (O&M)
DECIDED ON:05.11.2024**

JAIPAL SINGH

.....APPELLANT

VERSUS

COMMISSIONER & SECRETARY AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sumit Sangwan, Advocate and
Mr. O.P. Potlia, Advocate
for the appellant.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J

1. The present Regular Second Appeal has been preferred by Jaipal Singh-appellant against the impugned judgment and decree dated 21.04.2015 passed by learned Additional District Judge, Bhiwani, thereby, dismissing the appeal filed by the appellant against the judgment and decree dated 30.08.2012 passed by learned Additional Civil Judge (Sr. Division), Siwani vide which the suit of the plaintiff-appellant has been dismissed with no order as to costs.

2. The brief facts giving rise to this appeal are that present appellant-plaintiff (hereinafter referred as the 'appellant') had filed a suit for declaration against the present respondents-defendants (hereinafter referred as the

"respondents") to the effect that he is entitled to the amount of pay and allowances for the period from 1.1.2006 to 30.10.2006, grant of assured career progression scale and grade w.e.f. 1.12.2007, to get his personal file and ACR completed upto date, to get the wrong entry made regarding leave without pay w.e.f. 11.10.2000 to 22.11.2000 cancelled, to get Rs.7500/- credited in his GPF account No.Edu. 142176, to get his qualifying service verified upto date and to release of arrears of amount accrued thereon to him along with interest at the rate of 18% per annum from the date of accrual till actual payment with consequential relief of mandatory injunction directing the defendants to release the amount of pay and allowances for the period from 1.1.2006 30.10.2006, grant of Assured Career Progression Scale and Grade w.e.f. 1.12.2007, to get his personal life and ACR completed up-to-date, to get the wrong entry made regarding without pay leave w.e.f. from 11.10.2000 to 22.11.2000 cancelled, to get Rs.7500/- credited in his GPF Account No. 142176, to get his qualifying service verified upto date and to release the arrears of amount accrued thereon to him along with interest at the rate of 18% per annum from the date of accrual till actual payment.

3. Learned counsel for the appellant has contended that the appellant has joined the Education Department in 1997 as a JBT Teacher and served in various schools and positions, receiving satisfactory performance reviews. However, he faced issues with his pay, allowances, and career progression. It is further contended that the appellant was not paid according to the 6th Pay Commission recommendations from 01.01.2006 to 30.09.2006. The appellant has completed 10 years of satisfactory service in 2007 but was not granted Assured Career Progression (ACP). His GPF account was deducted

Rs.7500, but the amount was not credited. His service book and ACRs for certain years are missing. The appellant served a legal notice to the respondents in 2009, but they did not take responsibility for resolving his grievances. Instead, they blamed each other. Learned counsel for the appellant argues that the cause of action arose when his repeated requests and demands were ignored, and the defendants failed to address his grievances despite the legal notice.

4. Learned counsel for the respondents has contended that during his service period in District Sirsa, the appellant has availed various types of leaves due to his private affairs and the extra-ordinary leave without pay on private affairs can neither be treated as regular service nor qualifying for any purpose. For getting 1st ACP Scale, 10 years regular satisfactory service is mandatory without any break subject to the condition of good remarks in his service but the appellant availed Extra-Ordinary leave without pay on private affairs for two times w.e.f. 11.10.2000 to 22.11.2000 and w.e.f. 14.07.2006 to 06.08.2006 and relevant entries in this regard were made in his service book. The appellant no cause of action or locus standi to file the present suit. The suit is bad for mis-joinder and non-joinder of necessary parties, the appellant has concealed material facts. The appellant is not entitled for ACP Scale as per guidelines contained in the ACP rules. The service book of the appellant is complete in all respects.

5. Heard learned counsel for the respective parties.

6. The appellant is seeking three specific reliefs, primarily disputing the status of a ₹7,500 credit to his General Provident Fund (GPF) account and contesting entries related to his leave and advancement in pay scale. The

respondents assert that the ₹7,500 has already been credited to the appellant's GPF account (No. Edu. 142176). They provided evidence in the form of account statements for the year 2009-10 (Ex.D-1), which show three credits of ₹2,500 each from April to June 2003, along with interest. Additionally, a letter dated January 22, 2010 (Ex.D-1/A) confirms that the plaintiff was informed about this credit. Thus, the respondents maintain that the claim for this amount lacks merit. The appellant also challenges the recorded entry of extra-ordinary leave without pay from 11.10. 2000 to 22.11.2000, and contends that he is entitled to the first Assured Career Progression (ACP) w.e.f. 01.12.2007. The respondents counter this by stating that according to Haryana Civil Services Rules, an employee must have ten years of regular satisfactory service without breaks to qualify for ACP. They argue that since the appellant took extra-ordinary leave during the specified period, he did not meet this criterion. During cross-examination, it was revealed that the service book explicitly notes the extra-ordinary leave taken by the appellant. The appellant did not contest this entry at the time nor did he pursue his salary during his leave period, which further undermines his claim. The testimonies from various defence witnesses (DW-1 to DW-3) were not effectively challenged by the appellant.

7. Based on the evidence presented and the testimonies heard, it is concluded that ₹7,500 was indeed credited to the appellant's GPF account and the entries regarding extraordinary leave are accurate and valid. Consequently, since the appellant did not complete ten years of qualifying service due to his leave without pay, he is not entitled to the first ACP.

8. In view of the discussions made hereinabove, this Court is of the view that there is no illegality or perversity in the impugned judgments, as such the same are upheld.

9. Dismissed.

(SANDEEP MOUDGIL)
JUDGE

05.11.2024
sham

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*