

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224 (06 cases)

(1) RSA-3424-2018 (O&M)
Date of Decision :02.05.2024

State of Haryana through Collector, Kurukshetra
and others

...Appellants

Versus

Malkhan

....Respondent

(2) RSA-1817-2018 (O&M)

State of Haryana through Collector, Kurukshetra
and others

...Appellants

Versus

Karambir Singh

....Respondent

(3) RSA-1818-2018 (O&M)

State of Haryana through Collector, Kurukshetra
and others

...Appellants

Versus

Mahi Pal

....Respondent

(4) RSA-1819-2018 (O&M)

State of Haryana through Collector, Kurukshetra
and others

...Appellants

Versus

Rameshwar Dass

....Respondent

(5) RSA-3346-2018 (O&M)

State of Haryana and others

...Appellants

Versus

Devinder Singh

....Respondent

(6) RSA-1985-2018 (O&M)

State of Haryana through Collector, Kurukshetra and others

...Appellants

Versus

Krishan Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harish Rathee, Senior DAG, Haryana
for the appellant-State.

Mr. Ashok Tyagi, Advocate for the respondent
in RSA-3424,1817,1818 and 3346-2018.

Mr. K. S. Banyana, Advocate for the respondent
in RSA-1985-2018.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In this bunch of regular second appeals, challenge is to the judgment and decree of the Courts below by which, the respondents-plaintiffs have been granted benefit of 50% back wages upon reinstatement in service.

Learned counsel appearing for the appellant-State submits that

keeping in view the order passed by the Division Bench of this Court in *LPA No.1840-2010 titled as Papinder Singh and others vs. State of Haryana and others decided on 17.03.2011*, employees, who have been reinstated in service are not entitled for the grant of 50% back wages, which benefit has been allowed by the Courts below in favour of the respondents-plaintiffs.

3. On 01.06.2023, following order was passed by this Court:-

“Learned counsel for the appellants submits that though, it is a conceded fact that similarly situated employees who had filed RSA No.4608 of 2015 claiming the same benefit, was allowed by a Coordinate Bench of this Court on 27.04.2017, which judgment has already attained finality upto the Supreme Court of India but a relevant fact to be considered is that a contrary view, to the view taken by this Court in RSA No.4608 of 2015, was taken by the Division Bench of this Court while deciding LPA No.1840 of 2010 titled as Papinder Singh and others vs. State of Haryana and others, decided on 17.03.2011. Learned counsel for the appellants further submits that inadvertently, the said judgment was not cited before the Coordinate Bench while deciding RSA No.4608 of 2015.

Keeping in view the said assertion, actual fact which emerges is that to certain employees of the Haryana Police, who were also dismissed under Rule 12.21 of the Punjab Police Rules as applicable to Haryana, the benefits of arrears to the tune of 50% have been granted keeping in view the order passed in RSA No.4608 of 2015 but to other similarly situated employees, the same have been declined as their claim has denied by the Division Bench while

passing order in LPA No.1840 of 2010.

In order to know the actual position, appellants-State is directed to file a specific affidavit that how many employees, who were discharged under Rule 12.21 of the Punjab Police Rules as applicable to Haryana for participation in the police agitation and out of the said personnel, who all have been granted the benefit of 50% back wages as extended to the appellants in RSA No.4608 of 2015 so that appropriate decision will be taken in the present appeals.

Adjourned to 12.09.2023.

A photocopy of this order be placed on the file of other connected cases.”

4. In pursuance to the said order, an affidavit dated 28.08.2023 has been filed by the respondents in RSA-3424-2018 and other connected cases. In the said affidavit, it has been mentioned that services of total 56 employees were terminated on account of participation in the police agitation, who were ultimately reinstated in service and out of those 56 employees, 36 employees have been given the benefit of 50% back wages .

5. Learned counsel for the appellant-State concedes the fact that only 20 employees remained, including the respondents-plaintiffs herein, for the grant of the said benefit.

6. Learned counsel for the respondents-plaintiffs submits that once, 36 employees out of the total 56 employees, have already been given the benefit of 50% back wages, which benefit has already been allowed in favour of the respondents-plaintiffs by the Courts below and appellant-State has conceded the fact that similarly situated employees have already been granted the said benefit, the present regular second appeals are liable to be

dismissed.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. Once, out of the total 56 employees, who had been reinstated in service, 36 employees have already been granted the benefit of 50% back wages, denying the said benefit to the other employees will amount to discrimination. It is not the case that all the reinstated employees to whom the benefit of 50% back wages have been granted is under the orders of this Court and respondents themselves have granted the benefit of 50% back wages on their own. Not only this, in one of the case i.e. RSA-4608-2015, entitlement to claim 50% back wages have already been upheld upto the Hon'ble Supreme Court of India. Once, the grant of benefit has already been upheld upto the Hon'ble Supreme Court of India in the case of similarly situated employees and the said benefit has already been granted by the Courts below to the respondents-plaintiffs in the judgments impugned coupled with the fact that same which benefit has already been allowed by the State to the similarly situated employees of their own, denying the said benefit to the respondents-plaintiffs will amount to discrimination.

9. No difference between the respondents-plaintiffs and the employees, who have already been granted benefit of 50% back wages by the appellant-State has been pointed out by the learned counsel for the appellant-State. In the absence of any differentiating fact between the respondents-plaintiffs and the other employees, who have already been granted the said benefit of 50% back wages, judgment and decree of the Courts below cannot be treated to be perverse hence, no ground for

interference is made out by this Court and the present regular second appeals are accordingly dismissed.

7. Civil miscellaneous application pending, if any is also disposed of.

8. A photocopy of this order be also placed on the files of connected cases.

May 02, 2024 (HARSIMRAN SINGH SETHI)
aarti JUDGE

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