



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

211

RSA-5460-2017 (O&M)
Decided on :03.05.2024

KRISHAN DUTT

. .appellant

Versus

PUNJAB STATE POWER CORPORATION LIMITED PATIALA AND
ORS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Suvir Kumar, Advocate for the appellant.

None for the respondents.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the judgment and decree dated 25.01.2016 passed by Lower Appellate Court by which, the judgment and decree dated 22.12.2012 passed by the trial Court has been set-aside and the suit filed by the appellant-plaintiff has been dismissed.

2. Learned counsel for the appellant-plaintiff submits that by taking into account the military service rendered from 25.02.1964 to 28.02.1979, even though the appellant initially joined as Driver with the respondents-department on ad-hoc basis on 17.12.1981, the Punjab



Government National Emergency (Concession) Rules, 1965, which were in operation at the relevant time were made applicable for grant the service benefit to the appellant by the trial Court, whereas the lower Appellate Court has wrongly applied **the Punjab Recruitment of Ex. Serviceman Rules, 1982** only on the ground that the services of the appellant were only regularized on 23.06.1982 on which date, the 1982 Rules were in operation.

3. Learned counsel for the appellant further submits that once, the appellant was appointed prior to 23.06.1982, the trial Court has rightly granted the benefit to the appellant under the 1965 Rules. .

4. The said contention of the learned counsel for the appellant is incorrect. The benefit of military service can only be given on the basis of appointment on regular basis and it is a conceded position that services of the appellant were regularized on 23.06.1982 on which date the 1982 Rules were in operation. That being so, the learned Lower Appellate Court has rightly applied 1982 Rules to consider the claim as to whether the appellant is entitled for the grant of increment keeping in view the service rendered by the appellant in the army.

5. Learned counsel for the appellant very fairly concedes that in case, 1982 Rules are made applicable, the benefit of increment cannot be granted to the appellant as there was no provision in the 1982 Rules for the grant of said increment. That being the factual position, once, 1982 Rules has rightly been made applicable by lower Appellate Court, the relief claimed in the suit has rightly been declined by the lower Appellate Court.

6. No other argument has been raised by learned counsel for the parties.

7. Keeping in view the above facts and circumstances recorded



herein above coupled with the fact that no perversity in the judgment and decree passed by Lower Appellate Court has been pointed out by learned counsel for the appellant, no ground is made out for any interference by this Court in the present regular second appeal, hence, the present regular second appeal stands dismissed.

8. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

03.05.2024

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