



RSA-73 of 2025

:1:

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

**RSA-73 of 2025 (O&M)
Date of decision : 02.07.2025**

**THE HARYANA VIDHYUT PRASARAN NIGAM LTD. AND
OTHERS**

..... Appellants

VERSUS

FATEH SINGH

..... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present :- Mr. R. S. Longia, Advocate
for the appellants.

Deepinder Singh Nalwa, J. (Oral)

1. This regular second appeal is against the judgment and decree dated 11.10.2024 passed by learned Additional District Judge, Kurukshetra as well as against the judgment and decree dated 25.04.2019 passed by learned Civil Judge (Junior Division), Kurukshetra.

2. . Brief facts of the case are that the respondent-plaintiff joined the services of erstwhile HSEB (HVPNL) (hereinafter referred to as 'Nigam') on the post of S.A. on 05.07.1971. He was further promoted to the post of ASSA, SSA and thereafter on the post of J.E. on 16.08.1990. However, the respondent-plaintiff was granted notional promotion to the post of J.E.

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w.e.f.05.08.1986 treating him at par with his junior, Sh. Satbir Singh. The respondent-plaintiff retired on attaining the age of superannuation from the Nigam on 31.12.2006.

3. The Nigam decided to revise the pay scale of Junior Engineer who had completed more than 18 years of regular satisfactorily service in the pay band of Rs.9300-34800+Grade Pay Rs.5200/-. The above said relief was not granted to the respondent-plaintiff. Vide office letter dated 04.06.2015, the Nigam instructed all the Field Offices for grant of the above said pay band along with the grade pay of Rs.5200/- to all the Junior Engineers who had completed more than 18 years of regular satisfactorily service on 01.01.2006. The respondent-plaintiff submitted a representation dated 20.07.2016 requesting to fix his pay in the pay band of Rs.9300-34800 with grade pay of Rs.5200 w.e.f. 01.01.2006 as per the above mentioned order/letter. As no action was taken by the appellants-defendants, the respondent-plaintiff served a legal notice dated 26.08.2016. Despite the fact that the respondent-plaintiff had submitted a representation and served a legal notice, no action was taken by the appellants-defendants. Consequently, the respondent-plaintiff filed a suit for declaration before the learned trial Court to an effect that the respondent-plaintiff was entitled to get his pay fixed in the revised pay scale w.e.f.01.01.2006 in the pay band of Rs.9300-34800+ Grade Pay Rs.5200/-, and further to revise the pensionary benefits and pay the arrears on pay fixation as well as on retiral benefits alongwith interest at 18% per annum.

4. The appellants-defendants duly filed written statement in the

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above said suit. It was the case of appellants-defendants that as the respondent-plaintiff had retired on 31.12.2006 as such, the respondent-plaintiff was not entitled to the relief as claimed in the suit. It was also contended that the suit was time barred. It was also the case of appellants-defendants that since the respondent-plaintiff was granted notional promotion on the post of J.E w.e.f.05.08.1986 but actual promotion w.e.f. 16.08.1990, as such he did not have 18 years of regular satisfactorily service on 01.01.2006, hence, the relief as claimed by the respondent-plaintiff in the suit cannot be granted.

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

- “1. Whether the plaintiff is entitled to decree for declaration with consequential relief of mandatory injunction as prayed for?OPP
2. Whether the suit is not maintainable in the present form?OPD
3. Whether the plaintiff got no cause of action to file and maintain the present suit?OPD
4. Whether the plaintiff has concealed the true and material facts from the Court?OPD
5. Whether the suit is not properly valued for the purposes of Court fee and jurisdiction?OPD”

6. The Learned trial Court decided the suit in favour of the respondent-plaintiff vide judgment and decree dated 25.04.2019. The respondent-plaintiff was held entitled to fixation of his pay in the revised pay band of Rs.9300-34800+ Grade pay of Rs.5200/- w.e.f.01.01.2006.

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The respondent-plaintiff was also held entitled to grant of several retiral benefits alongwith simple interest at the rate of 10% per annum from the date of filing of the suit till realization. The relevant extract of the judgment and decree passed by the learned trial Court is re-produced hereunder:-

“19. Subsequently, the defendant–Nigam further revised the pay scale of its Employees. The ACP pay structure of Junior Engineer (J.E.) was modified. The relevant entry is in the 3 rd row of office order Ex. D-2. This order (Ex. D-2) itself has a noting that the effective date is from 01.01.2006 and not 05.09.2007. It is further corroborated by the source order i.e. letter memo dated 04.05.2015 (Ex. P-13). A perusal of memo Ex. P-13 issued by the HVPNL with captioned subject: “Disparity in grant of Grade Pay of Rs. 5200/- to the JEs in HVPNL after Completion of 18 years of Regular Service ” shows that, while giving reference to the office order (Ex. D-2), it was ordered that the effective date from which the grant of Grade Pay of ₹.5200/- to a J.E. has now been approved by the State Government w.e.f. 01.01.2006 instead of 05.09.2007 after completion of 18 years of regular service. This document Ex. P13 is well proved on record by PW-2 (summoned witness of record). The document (Ex. P-13) is of a sterling quality and is the clincher in this issue. No adverse circumstance affecting the “satisfactory completion of service” is pointed out by the defendants in the contemporary service-career of the plaintiff.

20. In view of the aforesaid oral and documentary evidence, the plaintiff is entitled to have his pay fixed in the pay band of ₹.9300–34800 plus Grade Pay of .5200/- w.e.f. 01.01.2006. He is also entitled to the consequential revision of pensionary benefits and arrears of pay and consequential claim thereof.”

7. Aggrieved against the judgment and decree dated 25.04.2019 passed by learned trial Court, the appellants-defendants filed an appeal before the learned lower Appellate Court. The learned lower Appellate Court partly allowed the above said appeal vide judgment and decree dated 11.10.2024 with a modification to an effect that respondent-plaintiff was entitled to 6% interest per annum instead of 10% interest per annum on the

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computed arrears. The relevant extract of the finding recorded by the learned lower Appellate Court is as under:-

“20. In the present case, as already discussed though the actual date of promotion of the plaintiff was 16.8.1990 but the date of his notional promotion as mentioned in the letter dated 10.2.2014 was 5.8.1986 and when it was so, in my considered opinion all the consequential benefits are to be given to the plaintiff from that date i.e. 5.8.1986 and if counted from 5.8.1986, the plaintiff would have completed 18 years of service on the cut of date i.e. 1.1.2006 and hence, he is entitled to the revised pay structure from 1.1.2006 as per the instructions given in the letter dated 24.6.2015 (Ex.D2). If the plaintiff is not granted the relief by holding that his actual promotion to the post of junior engineer had taken place on 16.8.1990 and he had not completed his 18 years of service on 1.1.2006, then the notional stepping up or to say the promotion given to him from 5.8.1986 (as given in Ex.P9) would be of no use and it is observed that the learned Trial court has done no wrong in granting the revised ACP pay scale to the plaintiff in terms of the instructions dated 24.6.2015 (Ex.D2) by holding that counting from 5.8.1986, the plaintiff had completed 18 years of service as on 1.1.2006.

21. As far as the arguments of learned counsel for the appellants/defendants that the suit of the plaintiff barred by limitation are concerned, it is observed that non revision of the pay scale has caused every day loss to the plaintiff and hence, in that sense the cause of action of the plaintiff is continuous cause of action which is otherwise not barred by limitation. The judgment relied upon by learned counsel for the appellants is not disputed but not applicable to the peculiar facts of the present case because in Dharampal Singh's (Supra) case the employee had claimed the promotion but in the present case the claim of the plaintiff is qua the revision in the pay scale and hence, the consequential benefits of the same in the pension.”

8. Aggrieved against the judgments and decrees passed by the learned Courts below, the appellants-defendants has filed the present appeal challenging the same.

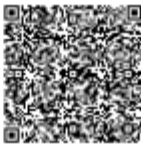
9. The only contentions raised by the learned counsel appearing on

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behalf of the appellants-defendants is that since the respondent-plaintiff was granted actual promotion w.e.f 16.08.1990 and later on notional promotion w.e.f 05.08.1986 and had retired on 31.12.2006 as such, the respondent-plaintiff did not have 18 years of service as on 01.01.2006 as such, he was not entitled to the benefit under the ACP rules.

10. After hearing the learned counsel appearing on behalf of appellants-defendants and going through the records of the case, the issue arises for consideration is whether the period of 18 years of service is to be calculated from the date of actual promotion on the post of JE dated i.e 16.08.1990 or from the date of notional promotion granted on the post the post of JE on 05.08.1986. A perusal of the facts of the case would show that the respondent-plaintiff was promoted on the post of JE w.e.f.16.08.1990; however, later on he was granted notional promotion/deemed promotion w.e.f 05.08.1986 treating him at par with his junior, Sh. Satbir Singh. Respondent-plaintiff was granted the benefit of stepping up pay at par with his junior on the post of J.E. w.e.f. 05.08.1986. The notional/deemed date date of promotion on the post of J.E w.e.f. 05.08.1986 has been taken into consideration for the purpose of retiral benefits. Rules do not envisage actual service of 18 years in regard to grant of benefit of ACP scales. Once the date of promotion in the case of respondent-plaintiff has been taken into consideration for the purpose of fixation of pay and retiral benefits w.e.f.05.08.1986, there is no reason why the said service w.e.f.05.08.1986 cannot be taken into consideration for the purpose of grant of ACP scales.

11. No substantial question of law arises for consideration in the



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present appeal.

12. In view of above, there is no infirmity or illegality in the judgments passed by the Courts below and the same are hereby affirmed. Accordingly, the present appeal is dismissed.

(DEEPINDER SINGH NALWA)
JUDGE

02.07.2025
Rimpal

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