

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2016:PHHC:123792



RSA No. 139 of 2001 (O&M)

Date of decision: 20th May, 2025

**The Barna Co-op. C/S Society Ltd. Barna, Tehsil Thanesar, District
Kurukshetra**

..Appellant

Versus

Arun Kumar and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA.

Present: Mr. C.R. Dahiya, Advocate for appellant.
Mr. Omkar Chauhan Advocate for respondent No.1
Mr. Pardeep Solath, Advocate for respondent No.4.

SUDEEPTI SHARMA, J(Oral)

1. The present appeal is preferred against the judgment and decree dated 23.08.1997 passed by Additional Civil Judge (Senior Division), Kurukshetra, whereby the Civil Suit filed by the respondent No.1 was decreed in his favour and judgment and decree dated 05.10.2000 passed by the Additional District Judge, Kurukshetra, whereby the appeal filed by the appellant against the judgment and decree dated 23.08.1997 was dismissed.

2. Brief facts of the case are that respondent No.1 was appointed as Salesman, on 27.08.1980. Since, respondent No.1 and other similarly situated persons were not regularized and were not granted regular pay scale despite representing the appellant, they filed Civil Writ Petition No. 3487 of 1990 before this Court and vide judgment dated 19.03.1990 this Court directed respondent No.1 alongwith other employees of the Society to make a representation to the appellant and the appellant was directed to decide the same by passing appropriate orders within a period of six months from the

date of order. Vide resolution dated 26.05.1992, the services of the respondent No.1 were regularized but he was not paid the arrears and other benefits, therefore, he filed Civil Suit before Additional Civil Judge (Senior Division) Kurukshetra, which was decreed in his favour, vide judgment and decree dated 23.08.1997. The appeal filed against the judgment and decree dated 23.08.1997 by the appellant was dismissed vide judgment and decree dated 05.10.2000 passed by the Additional District Judge, Kurukshetra, hence the present regular second appeal.

3. Learned counsel for the appellant contends that both the Courts failed to appreciate that “The Primary Co-operative Credit and Service Societies Staff Service Rules, 1992” are applicable to respondent No.1 and as per Rule-9, every employee of the society is to be paid a consolidated salary, therefore, the respondent No.1 is not entitled to any arrears of pay and consequential benefits which he has been wrongly held entitled to by both the Courts.

4. *Per-contra* learned counsel for respondent No.1 contends that vide resolution dated 26.05.1992 services of respondents No.1 was regularized, therefore, he would be entitled to all the benefits arising out of regularization.

5. I have heard learned counsel for the parties and perused the whole record of this case.

6. A perusal of the file shows that vide order dated 02.08.2001, the operation of the impugned judgment and decree was stayed by this Court.

7. Following issues were framed by the Additional Civil Judge (Senior Division), Kurukshetra, in the civil suit filed by respondent:

- “1. Whether the plaintiff is regular and confirmed employee of the defendants? OPP*
- 2. Whether plaintiff is entitled to arrears including pay, bonus, increments etc. along with interest, if so how much? OPP*
- 3. Whether plaintiff is entitled to a decree for mandatory injunction, as prayed for? OPP*
- 4. Whether the plaintiff has no locus-standi to file the present suit? OPD*
- 5. Whether the Civil Court has got no jurisdiction to entertain the present suit? OPD*
- 6. Whether suit is bad for notice under Section 124 of the Haryana Co-op. Societies Act? OPD*
- 7. Whether the suit is not properly valued for the purposes of court fee and jurisdiction? OPD*
- 8. Relief.”*

8. It is admitted case of the appellant in the written statement filed by them that upon notice of civil suit filed by respondent No.1, which is noted down in the judgment and decree dated 23.08.1997, that respondent No.1 was regularized and with regard to payment of arrears etc, the appellant had sought permission of the Deputy Registrar Cooperative Societies and Assistant Registrar but no permission was received and as and when permission would be received by the competent authority, the amount would be paid to respondent No.1. Therefore, there was an admission by the appellant in the written statement regarding regularization and entitlement of arrears of pay and other benefits attached to the post with interest. The issues No. 1 to 3 as referred to above were decided in favour of respondent No.1 and respondent No.1 was held entitled to arrears of pay attached to the post along with interest at the rate of 12% per annum on the amount of arrears from the date of its accrual till its payment. Admittedly, now the ground taken by the appellant regarding the service rules and Rule 9, as applicable to the respondent No.1 was never taken before both the Courts. Rather, before both the Courts, the appellant had admitted that the case of the

respondent No.1 for payment of arrears etc was sent for approval to the competent authority and the respondent No.1 would be paid the same as and when the permission/approval would be granted.

9. A perusal of the record shows that before both the Courts, the appellant was not able to show that the respondent No.1 was not entitled to the arrears of pay since in the written statement it is categorically admitted by saying that the case of the respondent No.1 was sent for approval of the competent authority.

10. In view of above, I do not find any merit in the present appeal and the same is dismissed with no order as to costs.

11. Since, the matter pertains to the year 2001 and the operation of the impugned judgments and decrees was stayed by this Court vide order dated 02.08.2001 and today after about 24 years the present appeal is decided, therefore, justice demands that the respondent No.1 is not further forced to prefer another round of litigation by filing execution application, the appellant is therefore directed to comply with the order passed by the Additional Civil Judge (Senior Division), Kuruksehtra and calculate the amount of arrears. The amount so calculated shall be deposited in the account of respondent No.1 and in the event of demise of respondent No.1 to deposit the same in the account of legal representatives of respondent No.1 within a period of one year from the receipt of copy of the judgment in six equal installments.

12. Decree sheet be drawn accordingly.

13. Pending application(s) if any also stand disposed of.

20th May, 2025

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(SUDEEPTI SHARMA)
JUDGE

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