



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

RSA-1364-2022 (O&M)

Date of Reserve:- 27.08.2025

Date of Pronouncement:-02.09.2025

Sathyam George Kappadakunnel

.....Appellant

vs.

Nestle India Ltd. & ors.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Pankaj Middha, Advocate
for the appellant.

SUDEEPTI SHARMA J.

1. The present regular second appeal is preferred against judgment and decree dated 26.07.2018 passed by learned Addl. Civil Judge (Sr. Divn.), Samalkha whereby the civil suit filed by the appellant for declaration was partly decreed in his favour and judgment and decree dated 02.04.2021 whereby the appeal filed by him challenging the part relief which was not granted vide judgment and decree dated 26.07.2018, was dismissed by learned Addl. District Judge, Panipat.

FACTS NOT IN DISPUTE

2. Brief facts of the case as per civil suit are that the appellant was appointed as Technician in the month of May, 1993 at Samalkha and performed his duties till the year 2009. Thereafter, he was transferred at Heritage Food India Pvt. Ltd Company Manufacturing Unit as representative Madanapalle near Bangalore and again transferred at Nestle India Ltd., Samalkha in the month of June, 2012 from the post of Production Officer and he was appointed as



Production Officer in Grade "M" on 1st January, 2011. His pay was Rs.90,500/- per month. He filed a civil suit with respect to pay granted to him stating that the respondents are giving basic salary of Rs.15,627/- instead of Rs.45,000/-, House Rent Allowance of Rs.6251/- instead of Rs.25,000/-, Compensatory Allowance of Rs. 9897/- instead of Rs.16000/- and transport allowance of Rs. 800/- instead of 4500/- per month for the post of Production Officer. However, the respondents are not providing car facility along-with fuel charges and night shift charges as well as holiday rest for Saturday and Sunday to the appellant. As per civil suit, he requested respondents for providing the above said pay scale and facilities but the respondents threatened him that if he demanded the same, he will be terminated from the service. The civil suit filed by him was partly decreed to the effect that respondents were restrained from terminating the service of the appellant except in accordance with law, vide judgment and decree dated 26.07.2012 passed by learned Addl. Civil Judge (Sr. Divn.), Samalkha. The appellant filed appeal against judgment and decree dated 26.07.2012 before learned Addl. District Judge, Panipat for the remaining relief, who dismissed the same, vide its judgment and decree dated 02.04.2021. Hence the present regular second appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT

3. Learned counsel for the appellants contends that both Courts failed to take into account the evidence on record which clearly shows that juniors to the appellant were giving more salary than the appellant. He, therefore, prays that the present appeal be allowed.

4. I have heard learned counsel for the appellant and perused the whole record of this case with his able assistance.



Analysis of the record

5. A perusal of the record shows that the appellant was examined as PW1 and in his cross examination, he admitted that the company is to pay as per the annual CTC written by the company. He further admitted that he works in shifts and the employees who works in shifts were not entitled for alternative Saturday and Sunday off. He further admitted that the company had given all his salary, as was fixed between him and the company and that after promotion in 'M' Grade, he was not getting benefits of 'M' Grade.

6. Ritesh Aggarwal was examined as PW-3 who brought the summoned record Ex. PW3/1 and in his cross-examination, he admitted that Ex. PW3/1 is the record of officer and of senior officers. He admitted that as per the target and behaviour, the salary is to be given to the officer category. He further admitted that whenever increase is made in the salary of any of the employee, the same is not objected to by any of the employee.

7. A perusal of the record further shows that the appellant categorically admitted the fact that he was getting the payment as per CTC given by the company every year and he never disputed the same. The grievance of the appellant is that he was promoted as Production Officer in 'M' Grade as per appointment letter Ex D10 and he was not getting the salary at par with other Production Officers of 'M' Grade. The fact that it is a private company is not disputed by the appellant. Further the fact that the appellant is governed by appointment letter issued to him, is again not disputed by him.

8. A perusal of the record further shows that the salary of the appellant was increased at very low pace, since his performance was below the required standards. Further his working was found to be below required standards. Ex. D10 is the appointment letter of the appellant, as per which the detail of revised salary



was enclosed with the appointment letter by further stating that all other conditions of employment would remain the same. He accepted the appointment letter, which is part of the record as Ex P3 and did not raise any objection at that time when his employment conditions were stated to remain the same. He sought the entitlement of his salary of Production Officer from June, 2012, whereas the appointment letter Ex P3 and D10 from the company of the appellant makes it clear that he was promoted as Production Officer as 'M' Grade on 01.01.2011. In the first year of his promotion, he did not claim the Grade 'M' benefits. Thereafter, he sought the relief for his increased salary as Production Officer as Grade 'M', as the documents placed on record by the respondent-Company i.e Ex D12 and Ex D13 makes it clear that his performance was found to be below standards and for that matter, his salary was very low in the year 2013 and 2014, which was not increased.

9. Since appellant was appointed with the Company and salary and terms and conditions of the appointment is part of the appointment letter, therefore there can be no comparison of compromise with other Production Officers. It is a contract between the Company and the employee and the increment in salary would depend on experience and behaviour of the employee. It is admitted fact by the appellant in his cross examination that salary is received as per yearly CTC. PW3 Ritesh Aggarwal also admitted that increment in salary depends on experience and behaviour of the employee. There is nothing on record to prove that the Company was bound to give equal pay to equal rank officers. The salary structure was attached with the appointment letter, which was never objected to by the appellant and terms and conditions were also accepted by him, for which he joined their service and he himself admitted that the salary was paid according to CTC given by the Company every year.



10. A perusal of the record further shows that the increments of salary is paid as per work and conduct of the employee, as per which, there can be no parity of salary between juniors and seniors. Ex D10 is the appointment letter along with conditions and Ex D14 is email dated 22.05.2014 which is sent in response to the email dated 13.05.2014 sent by the appellant, whereby grievance was raised by the appellant that his salary is lesser as compared to those who were promoted along with him and his increments were less consecutively for two years. Ex D14 is reproduced as under:-

Date: 22.05.2014

To

*Mr. Sathyan Kappadakunnel
Kappadakunnel House Areekara, Uzhavoor
Post: Veliyanloor
Distt: Kottayam Kerala-686638*

Dear Mr. George,

Reference to your e-mail dated May 13, 2014, the Company has noted the contents of your mail in which a grievance has been raised by you citing that your salary is lesser compared to those who were promoted along with you and that your increments have been less consecutively for two years.

You have been promoted as Production Officer in Grade M effective January 1, 2011. This is a responsible position in our organization, where the expectation of the organization from its employee is a strong business orientation and demonstration of leadership behaviors in his capacity.



We would like to state that your salary increments are based on the performance ratings which in turn are based on your achievement of Objectives and the Behaviors you exhibit. The said ratings on performance are evaluated in line with a robust Performance Management system of the Company.

*Your-performance ratings were 2*1 for the year 2012 and 2013. This has been transparently communicated to you by your Line Manager and you have agreed to the same. These ratings indicate that your performance has been below the acceptable standards of performance. You have been given timely feedbacks on your performance and behavior. We have also tried to support you on improving your performance by way our Performance Improvement Plan effective August 30, 2013.*

We regret to inform you that your performance on Individual Objectives and Nestlé Leadership Framework, behaviors has not shown improvement on sustainable basis. Salary Increase is performance driven for employees in your grade hence consequently, you have been given in increase of 2% for the year 2013-2014 and nil increase for the year 2014-2015. Therefore, we would like to inform you that any salary comparison holds no merit without reference to performance ratings.

It is reported that you have refused to accept your salary increment letter dated April 22, 2014. Despite the fact you were well informed about your poor performance and that the salary revision process is performance driven, you are still raising a grievance which holds no rationale ground. You are holding a responsible position in the organization hence, not



accepting any official communication and misbehaving with your seniors for the same is not acceptable.

You hereby cautioned to refrain from committing any set of misbehavior in future and advised to take diligent steps to improve your performance and behavior.

*Yours very truly,
Nestle India Ltd”*

11. A perusal of the above shows that salary of the employee with the Company was to be given as per the performance and there is no question of parity.

CONCLUSION

12. In view of the above, I do not find any infirmity in the judgment and decree dated 26.07.2018 passed by learned Addl. Civil Judge (Sr. Divn.), Samalkha as well as judgment and decree dated 02.04.2021 passed by learned Addl. District Judge, Panipat and the same are upheld. Accordingly, the present regular second appeal is dismissed.

13. Parties are left to bear their own costs. Decree sheet be prepared accordingly.

14. Pending application (s) if any also stands disposed of.

**(SUDEEPTI SHARMA)
JUDGE**

02.09.2025
Gaurav Arora

Whether speaking/reasoned : Yes
Whether reportable : Yes