



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

**RSA No.397 of 2010 (O&M)
Reserved on:20.01.2025
Pronounced on:29.01.2025**

Dr. Satish Pal Bansal

...Appellant

Vs

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.S. Bhalla, Advocate
for the appellant.

Mr. Sandeep Kumar, DAG Punjab

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HARPREET SINGH BRAR J.

1. The instant regular second appeal is preferred by the appellant-plaintiff against the judgment and decree dated 14.09.2009 passed by the learned lower Appellate Court whereby the appeal preferred by the respondents-defendants against the judgment and decree dated 17.02.2007 passed by the learned trial Court, was allowed. Against the aforesaid judgment of the learned lower Appellate Court, the instant regular second appeal has been preferred by the appellants-defendants.

2. Succinctly, the bone of contention is that the appellant-plaintiff filed a suit seeking a declaration to the effect that he was correctly placed in the pay scale of Rs. 14,300–18,150, with a basic pay of Rs. 15,500 per month, effective from January 1, 1996, along with the benefit of bunching as per the Punjab Government, Department of Finance notifications No. 7/1/97-FPI/314 dated January 6, 1998, and No. 7/1/97-FPI/7370 dated May 19,



1998. He further contended that the provisions of order No. Est-1.2000/8099, 8102 dated September 13, 2000, and the guidelines issued under letter No. 7/84/98-5921/4426 dated April 17, 2000, were not applicable to him and were contrary to the Civil Services Rules as well as the aforementioned notifications. Additionally, the appellant sought a permanent injunction restraining the defendants from revising or reducing his pay scale from Rs. 14,300–18,150 and his basic pay of Rs. 15,500 per month, effective from January 1, 1996 to the revised scale of Rs. 12,000-Rs. 15,500. He also prayed for an injunction against any deductions from his future salary and against the reduction of his specialty allowance from Rs. 250 per month to Rs. 100 per month from October 1997, alleging that such actions were unlawful, arbitrary, and in violation of the prescribed notifications. Hence, the suit

3. The respondents-defendants appeared and contested the suit by filing a joint written statement, wherein it was stated that all the actions of the respondents-defendants were in accordance with the Punjab Civil Services Rules, Punjab Government Notifications and Instructions issued from time to time and therefore the revision of the pay of the appellant-plaintiff was just and legal.

4. On the basis of pleadings, the learned trial Court framed as many as six issues including relief. Parties led their respective evidence and on appreciation of the evidence, the learned trial Court decreed the suit filed by the appellant-plaintiff. Subsequently, the respondents-defendants preferred an appeal against the judgment and decree of the trial Court



which was partly allowed to the extent that while the revision of pay of the appellant-plaintiff was just and legal, the respondents-defendants would, however, not be entitled to recover the amount already paid to the appellant-plaintiff.

5. Learned counsel appearing on behalf of the appellant argued that the appellant was initially placed in the scale of Rs. 3700-5300 w.e.f. 30.09.1995 after due diligence by the Secretary to the Punjab Government. The subsequent placement of the appellant in the lower revised scale i.e. Rs. 3000-4500 on 01.01.1996 and the denial of bunching benefit was patently illegal, unjust, and contrary to the Punjab Civil Services Rules. Further, it was contended that the instructions dated 17.04.2000 (*supra*) cannot supersede the Notification dated 19.05.1998. The eligibility and suitability of the appellant was adjudged multiple times including at the time of crossing the 1st efficiency bar dated 07.03.1983, fixation of pay after 6th pay commission 01.01.1986, crossing the 2nd efficiency bar dated 12.06.1986, grant of proficiency step ups after 8 and 18 years of service, respectively, among others. Consequently, the revision of pay of the appellant was unwarranted and unjustified.

6. *Per contra*, learned State counsel for the respondents averred that on an identical factual matrix, the writ petitions bearing **CWP No.9495 of 2004** titled as **Manjit Singh Gill and others vs State of Punjab and others**, decided on 10.05.2011, **CWP No.9023 of 2002** titled as **Dr. Rameshwar Chander and others vs The State of Punjab and others**, decided on 07.09.2010 and **CWP No. 11218 of 2003** titled as **S.S. Dhaliwal and others**



vs State of Punjab and others, decided on 15.09.2010 were decided in favour of the respondents. As such, the impugned judgment has been passed by the learned lower Appellate Court after correct appreciation of the evidence on record in accordance with law and therefore, no interference is warranted by this Court.

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

8. An identical controversy was settled by this Court in Dr. Rameshwar Chander and others vs. The State of Punjab and others, rendered in CWP-9023-2002, decided on 07.09.2010, wherein, the following observations were made:

“Petitioners were working as Senior Medical Officers in the Health Department of Government of Punjab. Their initial pay scale was of Rs.3000-4500. However, they were drawing salary in the pay scale of Rs.3700-5300 after they had completed 18 years of service. Case of the petitioners is that after revision of pay-scale w.e.f. 1.1.1996 they were to be placed in the pay scale of Rs.14300-18150 as they have completed 14 years of total regular service in the entry scale whereas the case of the respondents is that for fixing the salary, those persons, whose salary was fixed at Rs.3700-5300, were first to be fixed in the initial revised scale of Rs.12000-15500 and thereafter by granting the benefit of Assured Career Progression Scheme, their pay is to be fixed in the pay scale of Rs.14300-18150. It is stated that wrongly the basic pay of the petitioners was fixed at Rs.17,700/- on 1.1.1998 instead of Rs.17546/-. The rationale adopted by the Department to fix the salary of the petitioners is just and is according to functional chart. A uniform procedure has been adopted qua all the employees. The interpretation, as projected by the petitioners that their pay should be fixed according to their understanding cannot be accepted. Petitioners' prayer that they should be placed in the scale of



*Rs.14300-18150 is liable to be rejected. The reasoning given by the Department that first petitioners are to be placed in the scale of Rs.12000-15500 and thereafter by giving the benefit of assured career progression scheme, their pay is to be fixed in the scale of Rs.14300-18150 is just and proper. Hence, the claim of the petitioners cannot be entertained. The second prayer made in the present petition is that if the Department has wrongly fixed the pay scale of the petitioners initially at Rs.17700/-, and actually the petitioners have also drawn the same, no recovery be made from them in view of the ratio of law rendered in a Full Bench of this Court reported as **Budh Ram and others versus State of Haryana and others, 2009(3) SCT 333**. It is held in Budh Ram's case (*supra*) that if there is no deception, misrepresentation on the part of the employee, no recovery can be effected from him of the amount paid in excess. There is merit in this contention. It was held by Full Bench as under:-*

“10. Having induced that belief in the employee and made him change his position and arrange his affairs in a manner that he would not otherwise have done, it would be unfair, inequitable and harsh for the Government to direct recovery of the excess amount simply because on a true and correct interpretation of the rules, such a benefit was not due”

Mr. Kalra states that the recovery of the excess amount has been made from the petitioners. He submits that the same be ordered to be refunded to the petitioners.

Hence, the present writ petition is partly accepted. The amount, if recovered, be refunded to the petitioners. However, there will be no order as to costs.”

Further reliance can be placed upon the judgments of this Court in

Darshan Kumar Bhasin and others vs. State of Punjab and others CWP-6380-2006, decided on 01.02.2019.

9. Additionally, in view of the judgments passed by the Hon'ble Supreme Court in ***Pankajakshi (Dead) through Legal Representatives***



and others Vs. Chandrika and others (2016) 6 SCC 157, Randhir Kaur Vs. Prithvi Pal Singh and others (2019) 17 SCC 71 and Gurbachan Singh (dead) through LRs Vs. Gurcharan Singh (dead) through LRs and others, questions of law are not required to be framed in second appeal before the Punjab and Haryana High Court whose jurisdiction is circumscribed by provisions of Section 41 of the Punjab Act.

10. Consequently, in view of the discussion hereinabove and the case of the appellant being squarely covered by the judgments rendered by this Court in *Dr. Rameshwar Chander* case and *Darshan Kumar Bhasin* case (*supra*), this Court does not find any illegality and perversity in the judgment and decree rendered by the learned lower Appellate Court, which is based upon correct appreciation of facts and law. No ground for interference is made out. Resultantly, the instant regular second appeal stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

January 29, 2024
Ajay Goswami

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