



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-655-2016

Reserved on: 25.09.2025

Date of decision: 14.11.2025

BANTA SINGH

..Appellant

Versus

STATE OF PUNJAB AND ANR.

..Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Deepak Gupta, Advocate
for the appellant.

Mr. Animesh Sharma, Addl. A.G, Punjab.

SUDEEPTI SHARMA, J.

1. The present regular second appeal is filed for setting aside judgment and decree dated 07.08.2014 passed by learned Additional Civil Judge (Senior Division), Talwandi Sabo and judgment and decree dated 01.09.2015 passed by learned Additional District Judge, Bathinda, whereby, civil suit filed by the appellant was dismissed and appeal filed by the appellant against judgment and decree dated 07.08.2014 was dismissed, respectively.

BRIEF FACTS OF THE CASE

2. Brief facts of the case as per the pleadings in the civil suit are that appellant joined services with respondent on 10.03.1970 as Sub-Inspector at Mallan Wala Dada, District Faridkot, which was under immediate control of Assistant Registrar, Cooperative Societies, Moga. The appellant served under the respondent at various places and finally retired



from services on 31.01.2006 from Jatana Kalan Focal Point under the immediate control of Assistant Registrar, Cooperative Societies, Sardulgarh. As per the instructions and service rules of the respondents, the appellant was entitled to service increments i.e. (i) 8 year increment due on April, 1987; (ii) 16 year increment due on April, 1995; and (iii) 24 year increment due on April, 2003. These increments were not given to the appellant. A sum of Rs.29,570/- was also held up by respondents from GPF account of the appellant, which as per the pleadings, he was entitled from respondents, who have only paid Rs.2,53,660/- against sum of Rs.2,83,230/-, which was payable upto 31.01.2006. He made several requests and finally filed a civil suit. The civil suit filed by him was dismissed by learned Additional Civil Judge (Senior Division), Talwandi Sabo vide its judgment and decree dated 07.08.2014. He filed appeal against the same, which was also dismissed by learned Additional District Judge, Bathinda vide its judgment and decree dated 01.09.2015. Hence, the present Regular Second Appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:-

3. Learned counsel for the appellant contends that learned Additional Civil Judge (Senior Division), Talwandi Sabo has wrongly dismissed the civil suit filed by the appellant vide judgment and decree dated 07.08.2014 and the appeal filed by the appellant against judgment and decree dated 07.08.2014 was also wrongly dismissed by learned Additional District Judge, Bathinda vide its judgment and decree dated 01.09.2015.

4. He further contends that both the Courts have failed to consider the undisputed facts on record. He, therefore, prays that the present appeal be allowed.



5. Per contra, learned counsel for respondents contends that both the Courts have rightly dismissed the civil suit as well as appeal filed by the appellant.

6. He further contends that ACP is a performance linked benefit and linked to proficiency. Consequential, benefits would mean period of service would be counted but period of performance would be counted for proficiency. And in the departmental inquiry, the appellant was found guilty. He, therefore, prays that the present appeal be dismissed.

7. I have heard learned counsel for the parties and have perused the whole record of the case with their able assistance.

8. The appellant has claimed that he is entitled to 8 years service increment, which fell due on April, 1987, 16 years service increment due on April, 1995 and 24 year service increment due on April, 2003. It is admitted case of the appellant that he was not granted increment as he was removed from service in the year 1986 but reinstated in service in the year 1992.

9. On the other hand, the respondents admitted that period of removal of appellant from service from 01.12.1986 to 04.01.1993 was treated as on duty period but no confidential report of appellant was written during this period due to which no report certificate was issued to the appellant.

10. Further that service record of the appellant was not upto mark from 31.12.1995, therefore, he was not entitled to get proficiency step up during this period. The reasoning given by both the Courts for dismissing the civil suit as well as the appeal is that ACRs of appellant were not upto mark and proficiency step up cannot be claimed as a matter of right and the same can be granted by the competent authority after evaluating the service record



of the person seeking such proficiency step up, therefore, the appellant was not held entitled to proficiency step up after completion of 8 years, 16 years and 24 years.

11. A perusal of Annual Confidential Reports of the appellant (Ex.PX and Ex.D-3) shows that ACRs of the appellant for the years June, 1980, 1981 and 1983 to 30.03.1992 have not been written. The ACR for 31.03.1994 to 31.03.1998 are 'Good' and 'Very Good', ACR for 31.03.1999 is 'Below Average', whereas, ACR for 31.03.2000, 31.03.2004 and 31.03.2005 are 'Good' and 'Very Good' and 31.03.2001, 31.03.2002 and 31.03.2003 are 'Average'.

12. A perusal of record further shows that Assistant Registrar, Cooperative Societies, Sardulgarh was examined as DW-1, who stated on oath that period of removal from service of the appellant from 01.12.1986 to 04.01.1993 was treated as on duty, no confidential report was written during this period due to which no report certificate was issued to the appellant. He further stated that service record of the appellant was not upto mark from 31.12.1995 for 8 years and the service record was so bad that he was not entitled to get the proficiency step up during this period. Ex.P-1 dated 02.12.1992 is the reinstatement order, which reads as under:-

*“Government of Punjab
Department of Cooperation
(Cooperation II Branch)
ORDER*

Shri Banta Singh, Ex-Inspector cooperative societies filed appeal against the order dated 10.11.86 of the Registrar Cooperative Societies, Punjab, vide which he was removed from service, was rejected by the then secretary cooperation.



2. *Shri Banta Singh was charge sheeted on the following ground:-*

"Committed embezzlement through use of his official position."

3. *To know the truth the then Deputy Registrar Cooperative Societies Faridkot, was appointed as Inquiry officer. The Inquiry Officer submitted his report and established the charge against the Inspector. Registrar, Cooperative Societies after considering the inquiry report, removed him from service. Then he preferred the appeal against the order of Register, Cooperative Societies, Punjab Chandigarh, which was rejected by the then secretary Cooperative.*

4. *After that the Inspector preferred the review against the order of Secretary Cooperation. After hearing the appellant the Secretary Cooperation rejected the review. Know Sh. Banta Singh proffered memorial to the Governor against the order of Secretary Cooperation.*

5. *I have reviewed my orders dated 20.10.92 and again considered the facts of the case. I have gone through representation of Sh. Banta Singh Inspector. From the record, I find that two FIRs were registered against him under section 408 IPC (Embezzlement) in the court of Judicial Magistrate Ist class, Bathinda. In between the cases the court has acquitted him, as no charge has been proved under the above mentioned sections of IPC. The court has held Sh. Parshottam 1 Dass, Cashier and Secretary of the Cooperative Societies responsible for the embezzlement.*

6. *In view of the above the punishment of removal from service is harsh. I, therefore reinstate him in service with all the consequential benefits.*

Chandigarh,

Dated the 02.12.92

K.S.

*Secretary to Govt. of Punjab
Department of Cooperation"*



13. A perusal of the above referred to order shows that Appellate Authority reviewed its earlier order dated 20.10.1992 and again considered the case of the appellant and after considering the same, the appellant was reinstated in service with all consequential benefits vide order dated 02.12.1992.

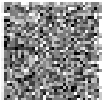
14. Once the appellant was reinstated with all consequential benefits, the respondents could not deny the benefit of ACPs of 8 years service increment, which fell due on April, 1987, 16 years service increment due on April, 1995 and 24 year service increment due on April, 2003.

15. Further, as per instructions, 50% reports are to be considered as 'Good' and if the ACR of a certain period is not available then it is to be considered as 'Good'.

16. Further, as per the record, appellant was reinstated in service in the year 1992 with all consequential benefits, which would include benefit of ACP etc. as well and so far as the period of removal of appellant from service is concerned, the same was treated as on duty period but no confidential report of the appellant was written during this period due to which no report certificate was issued and as per instructions, if the ACR of a certain period is not available then it is to be considered as 'Good'. Therefore, the civil suit filed by the appellant should have been decreed in his favour and both the Courts did not take into consideration the facts of this case before dismissing the civil suit as well as appeal filed by the appellant.

DECISION

17. In view of the above discussion, the present appeal is hereby allowed. Accordingly, the judgment and decree dated 07.08.2014 passed by



learned Additional Civil Judge (Senior Division), Talwandi Sabo and judgment and decree dated 01.09.2015 passed by learned Additional District Judge, Bathinda are set aside. Civil suit filed by the appellant is decreed in his favour.

18. Decree sheet be drawn.

14.11.2025

Ayub

(SUDEEPTI SHARMA)
JUDGE

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