



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

RSA-4245-2018 (O&M)

Date of Reserve:- 29.08.2025

Date of Pronouncement:-15.09.2025

State of Haryana Through Collector Sirsa and ors.

.....Appellants

vs.

Partap Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ram Karan Sharma, DAG, Haryana

Mr. B.S. Mittal, Advocate
for the respondent.

SUDEEPTI SHARMA J.

1. The present regular second appeal is preferred against judgment and decree dated 20.07.2016 passed by learned Civil Judge (Junior Division), Sirsa whereby the civil suit filed by the respondent was decreed in his favour and judgment and decree dated 16.03.2018 whereby the appeal filed by the appellants against the judgment and decree dated 20.07.2016, was dismissed by learned District Judge, Sirsa.

BRIEF FACTS

2. Brief facts of the case as per civil suit are that the respondent joined the appellant-department as Beldar in the year 1987. He was regularized as such w.e.f 01.04.1993. Thereafter, vide order dated 26.09.2000, he was re-designated as Truck Cleaner. He was then promoted as Driver on 12.06.2009. He approached the appellant-department for salary for the post of Driver since 26.09.2000 on the ground that he was working as driver since 26.09.2000. He served legal notice as



well upon the appellants but there was no reply to the same. Therefore, he filed civil suit, which was decreed in his favour, vide judgment and decree dated 20.07.2016 passed by learned Civil Judge (Junior Division), Sirsa and appellant filed appeal against the judgment and decree dated 20.07.2016, which was dismissed by District Judge, Sirsa. Hence, the present regular second appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

3. Learned counsel for the appellants contends that both the Courts did not appreciate the evidence on record while decreeing the civil suit filed by the respondent and dismissing the appeal filed by the appellant.

4. Per contra, learned counsel for the respondent contends that both the Courts have rightly appreciated the evidence and decreed the suit filed by the respondent in his favour.

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

6. The question involved in the present regular second appeal is as to whether the respondent would be entitled to salary for the post of Driver from 26.09.2000 when undisputedly he was working as Driver or w.e.f 12.06.2009 when he was promoted as Driver.

ANALYSIS OF THE RECORD

7. A perusal of the record shows that Ex. PW1/A is the duly sworn affidavit of the respondent wherein he stated that had been discharging the duties of Truck Driver since 26.09.2000. PW2 Sohan Lal, SDC Public Health proved on record documents Ex PW2/A to Ex. PW2/H. Thereafter, appellants examined K L Pahwa, SDE, whose sworn affidavit is Ex DW1/A wherein he repeated the entire assertions of his written statement wherein the claim asked by the respondent in civil suit was denied. However, he categorically admitted that the respondent was



working continuously as driver since 26.09.2000 as per record. He also proved on record Ex PW2/A to Ex. PW2/H to be true as per record of the department and as per which the respondent was working as Driver since 26.09.2000.

8. Admittedly, the respondent was regularized w.e.f 01.04.1993 and was re-designated as Truck Cleaner. He was promoted to the post of Vehicle Driver on 12.06.2009. DW1 KL Pahwa, Sub Divisional Engineer Public Engineering Department, Sirsa in his cross examination specifically admitted the fact that the respondent had been working as Driver since 26.09.2000. The documents Ex PW2/A as well as Ex. PW2/B relied upon by the respondent in order to prove the fact that he had been working as Driver since 26.09.2000 are proved by appellant admitting those to be issued as per record of the department. Therefore, it is admitted fact by the department and as per evidence on record that the respondent had been working/discharging the duties of Truck Driver since 26.09.2000.

9. Learned Civil Judge (Junior Division), Sirsa while relying upon judgments i.e *Dwarka Prasad Tiwari vs. M.P. Road Transport Corporation, 2001 (4) SCT 419, Balwant Singh vs. State of Haryana and others, 2011 (2) SCT 285 and Balbir Singh Dalal and others vs. State of Haryana and others*, decreed the suit of the respondent in his favour. Same judgments are relied upon by learned counsel for the respondent here in the present regular second appeal.

CONCLUSION

10. Hon'ble the Supreme Court in a case of *Selva Raj vs. Lt. Governor of Island, Post Blair, 1992 (2) SCT 286* has held that the appellant is entitled to draw the salary attached to higher post at the time when he actually worked on that post. The relevant portion of the judgment is reproduced as under:-

*“3. It is not in dispute that the appellant looked after
the duties of Secretary (Scouts) from the date of the order and*



his salary was to be drawn against the post of Secretary (Scouts) under GFR 77. Still he was not paid the said salary for the work done by him as Secretary (Scouts). It is of course true that the appellant was not regularly promoted to the said post. It is also true as stated in the counter-affidavit of Deputy Resident Commissioner, Andaman & Nicobar Administration that the appellant was regularly posted in the pay scale of Rs 1200-2040 and he was asked to look after the duties of Secretary (Scouts) as per the order aforesaid. It is also true that had this arrangement not been done, he would have to be transferred to the interior islands where the post of PST was available, but the appellant was keen to stay in Port Blair as averred in the said counter. However, in our view, these averments in the counter will not change the real position. Fact remains that the appellant has worked on the higher post though temporarily and in an officiating capacity pursuant to the aforesaid order and his salary was to be drawn during that time against the post of Secretary (Scouts). It is also not in dispute that the salary attached to the post of Secretary (Scouts) was in the pay scale of 1640-2900. Consequently, on the principle of quantum meruit the respondents authorities should have paid the appellant as per the emoluments available in the aforesaid higher pay scale during the time he actually worked on the said post of Secretary (Scouts) though in an officiating capacity and not as a regular promotee. This limited relief is required to be given to the appellant only on this ground.



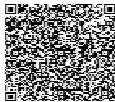
4. The decision of the Central Administrative Tribunal rejecting iliac claim of the appellant to the aforesaid limited extent is therefore required to be set aside. The appeals are allowed to the limited extent that the respondents will be called upon to make available to the appellant the difference of salary in the time scale of 1640-2900 during the period from 29-1-1992 to 19-9 1995 during which time the appellant actually worked. It is made clear that the payment of the aforesaid difference amount of salary shall not be treated to amount to any promotion given to the appellant on the said post. It is only on the ground that he had actually worked, as such this relief is being given to him. The difference of salary as aforesaid shall be paid over to the appellant within eight weeks from today. No costs.

11. The question involved in the present regular second appeal is no more *res integra*, therefore, the answer to the same is that the respondent would be entitled to salary for the post of driver since 26.09.2000 from the date he was working as Driver and not from 12.06.2009 when he was actually promoted as Driver.

12. In view of the law laid down by Hon'ble the Supreme Court in ***Selva Raj's case (supra)***, I do not find any infirmity in the judgment and decree dated 20.07.2016 passed by learned Civil Judge (Junior Division), Sirsa as well as judgment and decree dated 16.03.2018 passed by learned District Judge, Sirsa and the same are upheld.

13. Accordingly, the present regular second appeal is **dismissed**.

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



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

(SUDEEPTI SHARMA)
JUDGE

15.09.2025
Gaurav Arora

Whether speaking/reasoned : Yes
Whether reportable : Yes