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

RSA-2367-2002 (O&M)
Reserved on:- 22.05.2026
Pronounced on:- 27.05.2026

Punjab Urban Planning and Development Authority and Others

...Appellants

Versus

Madhu Sharma

...Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

**Present:- Mr. Harsh Aggarwal, Advocate
for the appellants.**

**Mr. Vidushi Kumar, Advocate and
Mr. Anubhav, Advocate
for the respondent.**

AMARJOT BHATTI, J.

1. The appellants/defendants have filed present Regular Second Appeal against impugned judgment and decree dated 13.03.2002 passed by learned Additional District Judge, Patiala vide which the appeal preferred by appellants/defendants was dismissed with costs and judgment and decree dated 28.05.2001 passed by learned Civil Judge (Junior Division), Patiala, partly decreed in favour of respondent/plaintiff, was upheld.

2. Facts of the case are that plaintiff (respondent in this case) filed suit for declaration to the effect that order passed by the defendants (appellants in this case) for recovery of House Rent Allowance already paid by the defendants to plaintiff for the period w.e.f. September, 1997 to April, 1998 @25% of basic pay from her monthly salary during her service



tenure on deputation with Punjab Urban Development Authority ('PUDA'), Patiala, is illegal, null and void, ultra vires without jurisdiction, arbitrary and is against the principles of natural justice, further, reducing the House Rent Allowance of the plaintiff from 25% per month of the basic pay to 7.5% w.e.f. 01.04.1998 is also illegal, null and void, or in the alternative, plaintiff is entitled to the House Rent Allowance @15% per month, which was being paid to the employees of parent department of the plaintiff i.e. Director of Public Instruction(S) Punjab, Chandigarh and she is further entitled to the refund of House Rent Allowance already deducted by the defendants along with interest and relief of permanent injunction restraining the defendants from effecting the said recovery from her salary.

3. Plaintiff (respondent in this case) Smt. Madhu Sharma joined the services in the department of D.P.I.(S) Punjab, Chandigarh in the year 1980 and she continuously worked till 21.04.1993. On 21.04.1993, she was transferred to Punjab Urban Planning and Development Authority (PUDA) at Patiala i.e. the office of defendants (appellants in this case). At the time of joining, it was agreed that terms and conditions of PUDA would be applicable for all purposes including House Rent Allowance as admissible to the employees of PUDA along with Deputation Allowance. Initially i.e. on 21.04.1993, there was fixed House Rent Allowance payable to all the employees of Punjab Government and the employees of PUDA. In the year 1996, PUDA framed House Rent Allowance Regulations i.e. Punjab Urban Planning and Development Authority Employees (House Rent Allowance) Regulations, 1996. As per Clause No. 3 of the said Regulations, plaintiff was entitled to receive House Rent Allowance as was being paid to the



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employees of PUDA. She was paid House Rent Allowance @25% of the basic pay from the period September, 1997 to April, 1998. On 10.09.1998, Punjab Government Education Department extended the deputation period for one year with the condition that she was not entitled to Deputation Allowance or any other allowance which is not admissible to the employees of parent department of the plaintiff. Although there was no specific reference regarding non-payment of House Rent Allowance, the defendants stopped making payment of House Rent Allowance @25% of basic pay and started making payment of House Rent Allowance @7.5%, which was neither being paid to the employees of PUDA nor to the parent department of the plaintiff. The said action of the defendants reducing House Rent Allowance of the plaintiff was challenged as illegal, null and void and against the principles of natural justice. It was pointed out that once PUDA allowed the benefit of House Rent Allowance Regulations, 1996 to the employees of PUDA, thereafter, the department was estopped to reduce the same. The order is discriminatory in nature, as other employees on deputation were still given House Rent Allowance @25% of the basic pay. Before passing adverse order, no notice was served upon the plaintiff. The action of defendants is abuse and misuse of the powers conferred upon the defendants. It was further mentioned that in case the Court comes to the conclusion that as per letter dated 10.09.1998, plaintiff is not entitled to House Rent Allowance @25% of basic pay, then plaintiff is entitled to the same @15% of the basic pay as admissible to the employees of parent department of the plaintiff. The action of recovery of House Rent Allowance already paid for the period September, 1997 to



April, 1998 is illegal, null, void and arbitrary and is against the principles of natural justice. Plaintiff was not given any prior notice before effecting recovery of aforesaid House Rent Allowance, nor was provided personal hearing. Plaintiff also gave representation to the defendants, but no action was taken. Finally, the suit was filed.

4. The suit filed by plaintiff (respondent in this case) was contested by defendants (appellants in this case), by filing written statement. It was submitted that as per the terms and conditions sent by the Office of Director of Public Instruction(S), Punjab, vide letter dated 24.08.1993, plaintiff was entitled to the Dearness Allowance along with other allowances admissible to other employees of Punjab Government of her category from time to time at the station of her posting. It was admitted that Clause No. 3 of Punjab Urban Planning and Development Authority Employees (House Rent Allowance) Regulations, 1996 shall apply to all the employees of the authority and personnel employed on contract or on deputation, if the terms and conditions of contract or deputation, as the case may be, so provided. In the case of plaintiff, it was specifically mentioned that she is entitled to Dearness Allowance and other allowances which are being paid to the employees of Punjab Government. Hence, she was entitled to the House Rent Allowance to the extent as is being paid to the other Punjab Government employees of same category and similarly situated. On the objection raised by the audit team, clarification was sought from the Head Office in the case of plaintiff along with other similar category of employees. The Head Office vide letter dated 26.04.2000 clarified that she was entitled to House Rent Allowance as is being paid to



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other Punjab Government employees of the same category. Thereafter, the defendants stopped making payment of House Rent Allowance to the plaintiff @ 25% of basic pay after April, 1998 and started making payment of House Rent Allowance to the plaintiff @7.5% as per Punjab Government instructions. Some of the employees who were on deputation from statutory boards or corporations, in whose case terms and conditions of deputation specifically provide that they will be entitled to House Rent Allowance as of the borrowing organizations, they were being paid House Rent Allowance @25% of the basic pay. It is admitted that recovery of House Rent Allowance @25% of the basic pay has been made from the monthly salary of plaintiff. The action taken by the department is as per the department rules and regulations. It was submitted that suit filed by the plaintiff may kindly be dismissed with costs.

5. In replication, the plaintiff denied the facts stated in the written statement and reiterated her claim in the plaint. From the pleadings of the parties, following issues were framed by the trial Court on 23.11.2000 :-

- (1) *Whether the plaintiff is entitled for declaration as prayed for?*
OPP
- (2) *Whether the plaintiff is entitled for permanent injunction as prayed for?*
OPP
- (3) *Relief.*

6. In order to prove the case, plaintiff Madhu Sharma herself stepped into the witness box as PW-1 and closed her evidence vide separate statement on 09.05.2001, after tendering into evidence certain documents.

7. In order to rebut the case of plaintiff, the defendants examined only one witness i.e. Vinod Kumar, Section Officer Works, PUDA office



as DW-1. Thereafter, learned counsel for the defendants vide separate statement closed defendants' evidence on 14.05.2001.

8. After hearing arguments advanced by learned counsel for both the parties, suit filed by the plaintiff (respondent in this case) was partly decreed without costs by learned Civil Judge (Junior Division), Patiala to the effect that she was entitled to receive House Rent Allowance @25% from September, 1997 to April, 1998 and she was entitled to recover the same from the defendants at the rate of 12% per annum simple interest. Feeling aggrieved, defendants filed Civil Appeal No.69 dated 25.07.2001, which was also dismissed by learned Additional District Judge, Patiala, vide judgment and decree dated 13.03.2002. Feeling aggrieved of the aforesaid judgments, appellants (defendants in the main case) preferred Regular Second Appeal.

9. I have heard the arguments advanced by learned counsel for the appellants/defendants as well as learned counsel representing respondent/plaintiff and have gone through the record with their able assistance.

10. Learned counsel for appellants/defendants admitted that respondent/plaintiff was transferred to Punjab Urban Planning and Development Authority, Patiala on 21.04.1993. The parent department of the respondent vide letter dated 24.08.1993 intimated that the respondent was entitled only to Dearness Allowance and other allowances as permissible to the other employees of Punjab Government of her category from time to time at the station of her posting. It is conceded that in the terms and conditions of deputation of respondent/plaintiff, it did not



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specifically contain any clause regarding the rate of House Rent Allowance to be paid to her. The letter dated 28.07.1993 issued by the office of Director of Public Instruction(S) is Ex.P-4. Clarification was sought by their Head Office vide letter dated 26.04.2000 (Ex.P-11) and finally, it was clarified that respondent/plaintiff was entitled to House Rent Allowance as was being paid to other government employees of the same category as provided under Punjab Civil Services Rules. As per Para No. 10.27 of Punjab Civil Service Rules, an employee of Punjab Government of same category posted in Patiala was entitled to House Rent Allowance @ 7.5% of the basic pay. The extract of Punjab Civil Services Rules is Ex. D-3. As per Clause No. 3 of Punjab Urban Planning and Development Authority Employees (House Rent Allowance) Regulations, 1996, regarding House Rent Allowance regulations, the respondent/plaintiff was paid House Rent Allowance @25% of the basic pay for the period September, 1997 to April, 1998. Therefore, the excessive House Rent Allowance already drawn by the respondent/plaintiff for the period September, 1997 to April, 1998 was ordered to be recovered from her salary and thereafter, she was paid House Rent Allowance @7.5% of the basic pay as being paid to the employees of Punjab Government. The respondent/plaintiff being employee of Punjab Government is governed by Punjab Civil Services Rules. The trial Court as well as Appellate Court wrongly interpreted the rules and regulations framed by the appellants, as a result, recovery of excessive House Rent Allowance already paid to the respondent/plaintiff has been wrongly declared as illegal, null and void. The action was taken as per the department rules and regulations applicable to the respondent/plaintiff.



Therefore, the decree passed by learned trial Court and confirmed by First Appellate Court regarding recovery of House Rent Allowance @25% from September, 1997 to April, 1998 along with interest is liable to be set aside by accepting the present Regular Second Appeal.

11. On the other hand, learned counsel representing respondent/plaintiff in his brief arguments argued that the facts of case and the documents on record were rightly appreciated by the Courts below. Before passing impugned order regarding recovery of House Rent Allowance @25% for the period September, 1997 to April, 1998, no notice was served upon respondent/plaintiff nor she was provided personal hearing. The recovery of House Rent Allowance already paid to the respondent/plaintiff was recovered in a wrongful manner. The findings given by the trial Court regarding issues No. 1 and 2 are based on the evidence and documents on record and the same are confirmed by the First Appellate Court. Appeal preferred by appellants/defendants is without merits and the same deserves dismissal.

12. I have considered the arguments advanced by learned counsel representing appellants (defendants in main case) as well as learned counsel representing respondent (plaintiff in main case) and have carefully gone through the evidence on record. In the case in hand, suit filed by respondent/plaintiff was decreed on 28.05.2001 by the Court of Civil Judge (Junior Division), Patiala to the extent that recovery of House Rent Allowance paid to plaintiff from September, 1997 to April, 1998 @25% was illegal, null and void and she was entitled to recover the same along with simple interest @12% per annum. Feeling aggrieved of this judgment,

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Civil Appeal No. 69 of 25.07.2001 filed by appellants/defendants has been dismissed by learned Additional District Judge, Patiala vide impugned judgment dated 13.03.2002, as a result, present Regular Second Appeal has been preferred. It is matter of record that respondent/plaintiff Madhu Sharma joined services with Director Public Instruction(S) Punjab, Chandigarh in the year 1980 and continuously worked till 21.04.1993. Thereafter, she was transferred to Punjab Urban Planning and Development Authority (PUDA) at Patiala i.e. in the office of appellants/defendants. Her joining report dated 21.04.1993 is Ex.P-5. As per order No. 9/70-89-SI(I) dated 28.07.1993 (Ex.P-4), Smt. Madhu Sharma, Senior Assistant was sent on deputation with terms and conditions as detailed therein. At serial No. 2 of the aforesaid order, there is condition regarding pay and Dearness Allowances, which is reproduced as under :-

“PAY AND DEARNESS ALLOWANCES:- He will draw his own pay in the scale of Rs. 1800-3200 in addition to the dearness and other allowances admissible to the employees of the Pb. Govt. of his category from time to time at the station of his posting. The deputation allowance will be treated as pay for the purpose of granting D.A. etc in accordance with Govt. Instructions issued from time to time.”

Admittedly, in this office order, there was no specific clause regarding payment of House Rent Allowance (HRA) to respondent/plaintiff who was sent on deputation with appellants/defendants. It is admitted fact that at the time of transfer of respondent/plaintiff on deputation on 21.04.1993, fixed HRA was payable to the employees of Punjab Govt. and also to the employees of PUDA. The Punjab Urban Planning and Development Authority Employees (House Rent Allowance) Regulations, 1996 (Ex.P-6) came into force and Section 1(3) of said Regulation runs as



under :-

“1. Short title, commencement and application–

(1) xxx xxx xxx

(2) xxx xxx xxx

(3) They shall apply to all the employees of the Authority and the personnel employed on contract or on deputation if the terms and conditions of contract of deputation, as the case may be, so provide but shall not apply to the persons employed on daily wages.”

Since, there was no specific term and condition regarding payment of House Rent Allowance in the deputation letter of respondent/plaintiff, she along with other staff members working on deputation, was paid HRA @25% of basic pay. Term of deputation was extended every year. Later as per letter dated 25.01.2000 (Ex. P-12) written by Director, Public Instructions(S), Punjab, Chandigarh to Chief Administrator, PUDA, Chandigarh, it was observed that she was entitled to House Rent Allowance being on deputation as per C.S.R. Vol. I Part-I under rule 10.22(5)(II). In pursuance of this, appellants/defendants started recovery proceedings for payment of excess House Rent Allowance @25% of basic pay for the period September, 1997 to April, 1998 from her salary.

Firstly, in the case in hand, when respondent/plaintiff was transferred to Punjab Urban Planning and Development Authority, Patiala, there was no clear cut instruction regarding payment of HRA to respondent/plaintiff, as a result, she was paid HRA as applicable to employees on deputation with PUDA. Rules and Regulations regarding payment of HRA to employees of PUDA came into existence in the year 1996. Even thereafter, as per Section 1(3) of Punjab Urban Planning and Development Authority Employees (House Rent Allowance) Regulations,

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1996 (Ex.P-6), appellants/defendants continued to pay HRA under the aforesaid Regulation. There was no misrepresentation on the part of respondent/plaintiff in claiming HRA. In fact, there was no clarity in terms and conditions when she was sent on deputation from her parent department to PUDA, as a result, there was no justification in effecting recovery of HRA already paid for the period September, 1997 to April, 1998. Apart from this, before passing any order regarding recovery, no notice was served upon her nor she was provided any opportunity of being heard.

13. Considering the aforesaid factual position, I do not find any reason to interfere in the concurrent finding of trial Court as well as First Appellate Court, as a result, judgments passed by the aforesaid Courts are, accordingly upheld and finding no merits in the present Regular Second Appeal preferred by appellants/defendants, the same is accordingly, dismissed.

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

27.05.2026*sunil devi/talit***(AMARJOT BHATTI)
JUDGE**

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