

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

RSA-2296-2025 (O&M)

State of Haryana and others

.....Appellants

Vs.

Ramesh Chand

.....Respondent

Reserved on : 10.12.2025**Date of Decision: 05.02.2026****Uploaded On: 06.02.2026***Whether only the operative part of the judgment is pronounced?***NO***Whether full judgment is pronounced?***YES****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Harish Nain, AAG, Haryana.

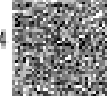
Mr. Ramesh Chand, respondent (in-person).

SUDEEPTI SHARMA J. (Oral)

1. The present appeal is preferred against judgment and decree dated 10.05.2024 and 05.03.2025 passed by learned Civil Judge (Jr. Division), Nuh and learned Additional District Judge, Nuh, whereby, the civil suit filed by the respondent was decreed in his favour and appeal filed by the appellant against judgment and decree dated 10.05.2024 was dismissed respectively.

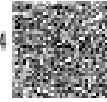
2. Brief facts of the case as per pleadings in the civil suit are that respondent having Matric qualification was recruited on the post of JBT Teacher on 18.10.1968. He was granted functional pay scale (Rs.1200-2040) of JBT Teacher on 01.09.1986. Later on, he improved his educational qualification as B.A. and B.Ed. and was promoted as SS Master on 14.01.1992/20.01.1992 on a pay scale of Rs.1400-2600, basic pay-Rs.2050.

Thereafter, two additional increments were granted to him. He was granted



1st higher standard scale on 01.01.1994 in the grade of Rs.1600-2660 which was modified to Rs.1640-2900. He was granted higher standard scale after completion of 10-20 years regular satisfactory service in the grade of 1640-2900 and his pay was fixed @Rs.2300 as on 01.01.1994. He got the same scale upto 31.12.1995. Thereafter, on the basis of length of service, the section officer in the office of DEO Office, Gurugram granted him ACP Grade on Master post in the scale of Rs.6500-9900. It is stated in the pleadings that Haryana Government issued letter under 7th Central Pay Commission to revise pension of pensioners/retirees who retired before 01.01.2016. The section officer in the office of DEO, Gurugram granted him 1st ACP Grade of Master post of Rs.6500-9900 on 01.01.1996 and the same was also entered in the service book of the respondent but same was withdrawn by section officer in the office of DEO, Gurugram and revised pension of respondent was fixed in the scale of 5500-9000 which was illegal and against the rules.

3. It is further stated that respondent since retired from post of SS Master and had retired not from the post of JBT, therefore, order of section officer in the office of DEO, Gurugram was illegal and not binding on the respondent. Further that respondent, time and again requested the appellants to consider his request and to again revise his pension in 2nd ACP of Master Post @Rs.6500-10500 and to withdraw its order of modification of his pension which was fixed in the pay scale of Rs.5500-9000 and further to grant him arrears of ACP and Pension. But his request was not answered. Therefore, he filed civil suit before learned Civil Judge (Jr. Division), Nuh which was decreed in his favour vide judgment and decree dated

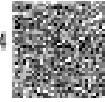


10.05.2024. The same was challenged by the appellants which was dismissed by learned Additional District Judge, Nuh vide judgment and decree dated 05.03.2025. Hence, the present regular second appeal appeal.

ARGUMENTS

4. Learned counsel for the appellants contends that as per Rule 1(3) of ACP Rules, 1998 applicable w.e.f. 01.01.1996, two financial upgradations are provided to any employee with reference to functional pay scale of the post on which he joined as a government servant as a direct recruit fresh entrant. And as per Rule 3(b) “direct recruit fresh entrant” means the post on which government servant was recruited as regular and direct recruitee in the government service and is in continuous employment since such recruitment. He, therefore, contends that ACP Scale is granted on the pay scale of the post of which government employee is recruited as fresh entrant and not on the pay scale of promoted post. And as the functional pay scale of post of JBT Teacher upto 31.12.1995 was Rs.1200-2040, therefore as per ACP Rules, 1998, respondent will be entitled to 1st ACP in the pay scale of Rs.5450-8000 and 2nd ACP Scale in the pay scale of Rs.5500-9000 which has been rightly granted by appellants and there is no provision in the ACP Rules to grant ACP on the scale of promotional post which both the Courts have wrongly granted to the respondent. He further contends that first time ACP Scale on promotional post was introduced in ACP Rules 2008 w.e.f. 01.01.2006 and respondent had already retired in the year 2005 itself.

5. He further contends that civil suit is barred by limitation since respondent retired on 30.11.2005 and he filed civil suit in the year 2018 i.e. after a delay of 13 years claiming ACP Scale on the functional pay scale of



pay of promotional post of Master which is highly time barred.

6 He relies on the following judgments passed by Hon'ble Supreme Court to support his arguments :-

(i) ***State of Punjab and Anr. Vs. Balkaran Singh, 2007 AIR (SC) 641***

(ii) ***S. Shivraj Reddy(Died) Thr His Lrs and Another Vs. S. Raghuraj Reddy and Others, 2024 INSC 427.***

7. Per contra, respondent-in person contends that both the Courts have rightly decreed the civil suit filed by the respondent and dismissed the appeal filed by the appellants. He further contends that the plea of civil suit to be time barred and was never taken by the appellants before the Civil Court. He therefore, prays that the present regular second appeal be dismissed.

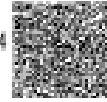
8. He relies on judgment passed by this Court in ***Vinay Pal Singh Vs. Vijay Kumar Singh, 1998(3) RCR (Civil) 198*** to support his arguments.

9. I have heard learned State counsel and respondent-in person and perused the whole record of the file which their able assistance.

ANALYSIS OF THE RECORD

10. A perusal of the record shows that the respondent was recruited on the post of JBT Teacher on 18.10.1968 and was promoted as S.S. Master on 14.01.1992/20.01.1992. He remained in service for more than 20 years. ACP Rules 1998 were applicable w.e.f. 01.01.1996. Relevant portion of Rule 1(3) and 5 of ACP Rules, 1998 are reproduced as under:-

“Rule 1 (3) - The objective of these rules is to provide such of Government servants who fall within the scope of these rules, atleast two financial upgradations, including the financial upgradation, if any, availed by



such Government servants as a consequence of the functional promotion, within the corresponding prescribed period of length of service during his entire career, as may be specified under these rules or by the Government from time to time within these rules, with reference to the functional pay scale of the post on which he joined the Government service as a direct recruited fresh entrant.

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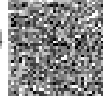
5. - Eligibility for Grant of ACP Scales:- (1) Every Government servant who, after a regular satisfactory service for a minimum period of 10 years, if the minimum period is not otherwise prescribed to be different than 10 years either in these rules or by the Government for any class or categories of Government servant from time to time, has not got any financial upgradation in terms of grant of a pay scale higher than the functional pay scale prescribed for the post as on 31.12.1995, on which he was recruited as a direct recruited fresh entrant:-

(a) either as a consequence of his functional promotion in the hierarchy, or

(b) as a consequence of the revision of pay scale for the same post, or

(c) as a consequence of any other event through which the functional pay scale of the post has been upgraded, with respect to the functional pay scale prescribed for the post as on 31.12.1995, shall for the purpose of drawal of pay, be eligible for placement into the First ACP scale with reference to him.”

11. A bare reading of above referred to rules shows that these rules are called Haryana Civil Services (Assured Career Progression) Rules 1998 and came into force on 01.01.1996. The objective of these rules is to provide



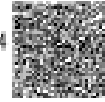
such government servants who fall within the scope of these rules atleast two financial upgradations, including financial upgradation, if any, availed by such government servants as a consequence of functional promotion, within the corresponding prescribed period of length of service during his entire career with reference to functional pay scale of post on which he joined the government service as a direct recruit fresh entrant.

12. Meaning thereby, that these rules provide for two financial upgradations with reference to functional pay scale of the post on which he joined the government service as a direct recruited fresh entrant.

13. In the present case, respondent joined as “fresh entrant” in the year 1968 and he was promoted as SS Master on 20.01.1992.

14. Further as per Rule 5 every government servant who, after regular satisfactory service for a minimum period of 10 years has not got any financial upgradation in terms of grant of pay scale higher than the financial pay scale prescribed for the post as on 31.12.1995 on which he was recruited as a direct recruited fresh entrant either as a consequence of his functional promotion in the hierarchy or as a consequence of revision of pay scale for the same post shall be eligible for placement into 1st ACP Scale with reference to him. Meaning thereby, if a fresh entrant is promoted that amounts to financial upgradation only.

15. And in the present case, respondent was promoted as SS Master on 14.01.1992/20.01.1992 which amounts to financial upgradation only. Therefore, as per ACP Rules, 1998 which came into force from 01.01.1996 promotion would also amount to financial upgradation and the respondent was appointed as JBT Teacher on 18.10.1968. Thereafter, was promoted as



SS Master on 14.01.1992/ 20.01.1992. Thereafter, he was granted higher standard scale from Rs.1600-2660 to Rs.1640-2900 w.e.f. 01.04.1995.

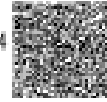
16. A perusal of the record shows that two ACPs on the post of JBT have already been granted during the pendency of the civil suit vide pay fixation order dated 26.10.2021. This is further proved by evidence of DW-2 Gulab Singh, who examination in chief stated that the first ACP scale on the post of JBT is 5450-8000 and second ACP scale is 5500-9000. He further stated that the pay scale of promotional post of Master is also the same as 5500-9000, which is equal to second ACP on the post of JBT. In his cross-examination, his veracity could not be shaken.

17. A perusal of stay application under Order XLI Rule 5 of the Code of Civil Procedure, 1908 filed before learned District Judge, Nuh further shows that the respondent has already granted second ACP scale on the post of JBT.

The relevant paras of the same are reproduced as under:-

“2. That the learned Civil Court ignored the material fact that the respondent/plaintiff was appointed JBT Teacher on dated 18.10.1968 and promoted as SS Master on dated 20.01.1992 on grade of Master Rs.1400-2600 1640-2900. The 1st ACP scale of JBT is 5450-800 and 2nd ACP scale is 5500-9000 as per Haryana Civil Services (ACP) Rules, 1998 and the same has been awarded to the respondent/plaintiff as per pay fixation dated 26.10.2021 the respondent/plaintiff is not entitled to any future up graduation which has wrongly been granted by the learned Lower court vide impugned order dated 10.05.2024.”

18. In view of the above referred to affidavit of the appellants and



the evidence of DW-2 Gulab Singh, respondent was already granted two financial upgradation.

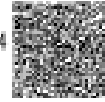
19. Now, coming to the judgments referred to by learned State counsel. The first objection raised by the learned counsel for the appellant is regarding delay in the filing of the civil suit, since respondent retired on 30.11.2005 and he filed civil suit in the year 2018 i.e. after a delay of 13 years.

20. Hon'ble Supreme Court in ***S.Shivraj Reddy(Died) Thr His Lrs and Another Vs. S. Raghuraj Reddy and Others, 2024 INSC 427*** held that the limitation for filing civil suit is a period of three years which starts to run, when right to sue first accrues.

21. And, in the present case, the right of the respondent accrued in the year 1998 itself when ACP Rules were framed and were applicable w.e.f. 01.01.1996. He retired in the year 2005 and filed civil suit in the year 2018. Therefore, the civil suit filed by the respondent, in view of the above referred to judgment, is barred by limitation.

22. So far as the contention of respondent- in person that the plea of limitation was never taken by the appellants before the Civil Court is concerned, appellant-State has relied on judgment passed by Hon'ble Supreme Court in ***S.Shivraj Reddy(Died) Thr His Lrs and Another Vs. S. Raghuraj Reddy and Others, 2024 INSC 427***, wherein, Hon'ble Supreme Court has held that even if plea of limitation is not set up as defence, Court has to dismiss the suit if it is barred by limitation.

23. In the present case, the right accrued to the respondent in the year 1998 when ACP Rules were framed to be applicable w.e.f. 01.01.1996



and he did not file any civil suit during the course of his service. He retired in the year 2005 i.e. on 30.11.2005 and from 1998 till 2005 he did not file any civil suit for grant of ACP. Even after his retirement he filed civil suit in the year 2018 i.e. after almost 13 years. Therefore, the civil suit filed by the respondent was highly time barred.

24. Now coming to the judgment relied upon by the respondent-in person titled as *Vinay Pal Singh Vs. Vijay Kumar Singh, 1998(3) RCR (Civil) 198*.

This case pertains to the civil suit filed for declaration of title and right to the property wherein, this Court held that right to bring a declaratory suit is a continuing right so long as right to property is itself subsisting. Therefore, limitation would not be applicable.

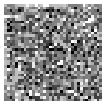
25. This judgment would not help the respondent so far as the facts of the present case are concerned, which are distinguishable.

CONCLUSION

26. In view of the above, civil suit filed by the respondent-in person was highly belated, therefore, should have been dismissed on delay itself. So far as the merits of the present case are concerned, in view of the above discussion, the respondent does not have a good case on merits as well, and civil suit on merits also deserves to be dismissed.

27. In view of the above, both the courts erred in decreeing the civil suit filed by the respondent and dismissing the appeal filed by the appellants.

28. In view of the above, judgment and decree dated 10.05.2024 passed by learned Civil Judge (Jr. Division), Nuh and judgment and decree 05.03.2025 passed by learned Additional District Judge, Nuh are hereby set



aside Consequently, civil suit of the respondent is dismissed.

- 29. Accordingly, the present regular second appeal is allowed.
- 30. Parties are left to bear their own cost.
- 31. Decree sheet be prepared.
- 32. Pending application(s), if any, also stand disposed of.

05.02.2026

(SUDEEPTI SHARMA)
JUDGE

Saahil

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