

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12283-12284/2013

(From the judgement and order dated 22/12/2011 in CR No.3557/2011 dated 27/08/2012 in CR No.3557/2011, RA No.59/2012 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF PUNJAB & ORS.

Petitioner(s)

VERSUS

KANWALJIT SINGH GHUMAN

Respondent(s)

(With prayer for interim relief and office report)

Date: 24/03/2014 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR
HON'BLE MR. JUSTICE M.Y. EQBAL

For Petitioner(s) Mr.Ajay Kapur, AAG
Mr.Dinesh Kumar, Adv.
Ms. Naresh Bakshi, Adv.

For Respondent(s) Mr.Sudhir Walia, Adv.
Mr.Jaswant Singh, Adv.
Mr. Abhishek Atrey, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard Mr.Ajay Kapur, learned Additional Advocate General, who has appeared on behalf of the petitioners and Mr.Sudhir Walia, learned counsel, who has appeared on behalf of the respondent.

We have perused the impugned order passed by the High Court. In order to determine whether or not the High Court while exercising its revisional jurisdiction (emerging out of execution proceedings initiated by the respondent), has gone beyond the decree passed in favour of the respondent, the operative part of the impugned order passed by the High Court is extracted hereunder:

"The order dated 23.3.2011 (Annexure P-15) is set aside and it is clarified that the instructions issued by the State of Punjab on 20.1.2003 were confide to the pay protection of an employee of the service rendered before he joined a new civil post. It protected even the higher scale granted to an employee. However, it clarifies that he shall not take a march over and above his seniors and the seniors cannot claim parity of pay scale with his juniors. This pay fixation was to be treated as a measure personal to him. The letter did not lay down any condition as to how the date of joining has to be fixed. The department has assigned the seniority with effect from 1.4.1984 vide appointment letter (Annexure P2). A direction is given to the department to re-fix the pay of the petitioner with effect from 1.4.1984 and after counting the increments earned until 1.2.1991 his pay should be re-fixed after re-fixing it from 1.4.1984 and arrears be paid to him within the next four months. It is also clarified that the petitioner is also entitled to 18% p.a. interest on the arrears as the Appellate Court has not modified setting aside the order passed by the trial Court."

Having gone through the operative part of the impugned order, we are satisfied, that the High Court merely directed notional fixation of pay of the respondent with effect from 01.04.1984, so as to determine the pay as he would be dispersible to the respondent from the date of his joining i.e. 01.02.1991. It is clear, that the High Court ordered payment of arrears only with effect from the date of the respondent's joining i.e. 01.02.1991.

In the above view of the matter, we are of the considered view, that the High Court did not exceed what was decreed in favour of the respondent, inasmuch as, for fixation alone the date taken into consideration was determined as 01.04.1984, whereas, for payment of arrears, it is the date of the respondent's joining i.e. 01.02.1991.

In view of the above, we do not find any ground to interfere with the impugned order. The instant special leave petitions are accordingly dismissed.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Assistant Registrar