
Haryana State Minor Irrigation and Tubewell Corporation, Chandigarh Vs Ramu Singh

Regular Second Appeal No. 1817 of 1999

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 11, 2000

Acts Referred:

Constitution of India, 1950 – Article 14, 16

Hon'ble Judges: M.L. Singhal, J

Bench: Single Bench

Advocate: A.M. Punchhi, for the Appellant; Amrit Pal, for the Respondent

Final Decision: Allowed

Judgement

M.L.Singhal, J.

Shri Ramu Singh son of Kanhaya Lal was appointed on 29.1.1981 as Ferro Printer in the scale of Rs. 300-430/- plus

usual allowances by Superintending Engineer, Jind. After some time, he was transferred from Jind to Hisar. On 14.5.1987, his services were

regularised by the Managing Director of the Haryana State Minor Irrigation & Tubewell Corporation, Chandigarh (hereinafter referred to as the

"Corporation") and he was given the pay scale of Rs. 480-760/- which was being given to the AZO operators and Ferro Printers. Haryana

Government revised the pay scales being given to its employees with effect from 01.01.1986. So far as the pay scale of Ferro Printers and that of

AZO Operators was concerned, it was revised to Rs. 1200- 2040/- from Rs. 480-760/-. It was the case of the plaintiff that he was doing the

same work as was being done by other AZO Operators and Ferro Printers in the Corporation and in other Division Anil Kumar who is working as

AZO Operator is getting pay scale of Rs. 1200-2040/- plus usual allowances. It was also his case that the academic qualifications which the

plaintiff possesses are the same which others possess who have been given the pay scale of Rs. 1200-2040/-. On these allegations, he filed suit for

declaration against the Corporation through its Managing Director to the effect that he is entitled to the pay scale of Rs. 1200-2040/- as is being

given to others.

2. Defendants contested the suit of the plaintiff. It was alleged that the suit is barred by time, suit is not maintainable, plaintiff has no cause of action

and the plaintiff is estopped by his act and conduct from filing the suit. Plaintiff was given ad hoc appointment as Ferro Printer in the grade of Rs.

300-430/-. It was purely on ad hoc basis subject to the terms and conditions of the appointment that his services will be governed under the rules

and regulations of the Corporation which are framed and made applicable from time to time. Post of Ferro Printer is Class-IV Post. Whereas, the

post of AZO Operator is Class-III post. Duties and functions of both the posts are quite different. Posts of AZO Operator and Ferro Printer are

not inter-linked with each other. Plaintiff is entitled to the pay scale of Ferro Printer. He has no right to claim the pay scale of the post of AZO

Operator. It was stated that the plaintiff has rightly been given the pay scales of Ferro Printer which was revised to Rs. 750-940/-with effect from

1.1.1986. It was denied that he is performing the same duties which are being performed by Anil Kumar. Anil Kumar is performing the duties of

AZO Operator while the plaintiff is performing the duties of Ferro Printer.

3. On the pleading of the parties, the following issues were framed by the trial Court:

1. Whether the plaintiff is entitled to pay scale of Rs. 1200-2040 as alleged in the plaint ? OPP

2. Whether the suit is time barred ? OPD

3. Whether the suit is not maintainable ? OPD

4. Whether the plaintiff has no cause of action to file this suit? OPD

5. Whether the plaintiff is estopped by his own act and conduct from filing this suit ? OPD

6. Relief.

Vide order dated 14.1.1998, Civil Judge (Junior Division), Hisar, decreed the plaintiff's suit to the extent that he was entitled to pay scale of Rs.

1200- 2040/-plus usual allowances, but he will have arrears for the period of 38 months preceding the date of the suit, as he is working as AZO

Operator from the very beginning and also that there was no other AZO Operator in the Division. It was also found that the duties of the AZO

Operator are akin to the duties of Ferro Printer. Their duties are similar. Academic qualifications required for these posts are also the same. It was

found that the plaintiff was entitled to the pay scale of AZO Operator which was Rs. 1200-2040/-. The Corporation went in appeal which was

dismissed by learned District Judge, Hisar, vide order dated 24.12.1998. Still not satisfied, the Corporation has come up in further appeal to this

Court.

4. In my opinion this appeal has to be allowed as the post of Ferro Printer and the post AZO Operator are different posts. Qualifications required

for the post of Ferro Printer may be the same which are required for the post of AZO operator, but the post of AZO Operator is a Class-III post

while the post of Ferro Printer is a Class-IV Post. Post of AZO Operator is in the pay scale of Rs. 1200-2040/- while the post of Ferro Printer is

in the lower scale of Rs. 750-940/- after the revision of the pay scales which took place with effect from 1.1.1986. Prior to the revision of the pay

scale that took place on 1.1.1986, the pay scale of the post of Ferro Printer was Rs. 300-430/-. Respondent was appointed as Ferro Printer, is

his own case. As the post of Ferro Printer is a Class-IV post, he has to be given the pay scale of the incumbent of a Class-IV post. AZO

Operator is a Class-III post. Incumbent of a Class-IV cannot be equated with the incumbent of Class-III post in the matter of pay scales. The

incumbent of a Class-III post has to be in a higher pay scale vis-a-vis the incumbent of a Class-IV post. It is the status of the post which goes to

determine the pay scales. If the AZO Operators and Ferro Printers are required to have the same qualification, that does not mean that the post of

AZO Operator is at par with the post of Ferro Printer. Prior to the revision of pay scales, AZO Operator was in the pay scale of Rs. 450-760/-

while Ferro Printer was in the pay scale of Rs. 300-430/- after the revision of the pay scales, this difference has to be maintained. It is the

superiority of the functions of a post and the status attached to it which determine the pay scale of a post. Plaintiffs suit was within time so far as his

claim of declaration that he is entitled to the pay scale of Rs. 1200-2040/- is concerned. Qua this claim, he has a recurring cause of action. His

claim was barred by time so far as the arrears were concerned. He was entitled to the arrears of 3 years.

5. For the reasons given above, this appeal is allowed. Judgments and decrees of both the Courts below are set aside and the plaintiffs suit is

dismissed with no orders as to costs.

6. Appeal allowed.