



RSA-4355-2001 (O&M)

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

RSA-4355-2001 (O&M)

Reserved on : 30.10.2025

Pronounced on: 14.11.2025

Satya Kumari Uppal

..... Appellant

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. Cyrus, Advocate for
Mr. M.K. Dogra, Advocate, for the appellant.

Mr. Nirmal Preet Singh Hira, DAG, Punjab.

DEEPINDER SINGH NALWA, J.

1. This Regular Second Appeal is against the judgment and decree dated 23.07.2001 passed by learned Additional District Judge, Ferozepur, (hereinafter referred to as learned lower Appellate Court) whereby, appeal preferred by the appellant/plaintiff against judgment and decree dated 25.01.1999 passed by learned Additional Civil Judge (Senior Division), Ferozepur (hereinafter referred to learned trial Court) has been dismissed and the suit filed by the appellant/plaintiff be decreed holding the appellant/plaintiff entitled for retiral benefits taking into consideration the last pay drawn as Rs.2030/- per month.

2. Brief facts of the case are that the appellant/plaintiff was working as Lady Health Visitor, Ferozepur in Department of Health in the State of Punjab and was posted at Primary Health Centre, Mamdot. The



appellant/plaintiff retired on attaining the age of superannuation on 30.04.1994. It has been averred by the appellant/plaintiff that after her retirement, appellant/plaintiff was entitled to retiral/pensionary benefits including gratuity, repayment of GPF, payment of pension and leave encashment on the basis of last drawn pay and allowances. In spite of the fact that the appellant/plaintiff had submitted various representations and served legal notice for release of her retiral benefits on the basis of last drawn pay, even then no retiral benefits were released to the appellant/plaintiff. Aggrieved against the abovesaid action of the respondents-defendants, the appellant/plaintiff filed a suit for declaration to the effect that the appellant/plaintiff is entitled for grant of retiral benefits i.e. gratuity, payment of GPF, payment of pension and leave encashment on the basis of last pay drawn and allowances along with 24% interest on account of delayed payment.

3. Upon notice, the respondents-defendants filed written statement admitting the fact that the appellant/plaintiff was working as Lady Health visitor at Ferozepur and retired on 30.04.1994. It was the case of the respondents-defendants that the appellant/plaintiff had not made any request for release of the pensionary benefits, even then, gratuity and pensionary benefits were paid to the appellant/plaintiff. The Accountant General, Punjab sanctioned DCRG amounting Rs.31,515/- and pension vide letter dated 28.09.1994. As such, the pension and gratuity were sanctioned on the basis of last pay and allowances actually



drawn by the appellant/plaintiff. A list of employees was sent by the Director, Health and Family Welfare, Punjab, Chandigarh to whom selection grade was to be granted vide letter dated 28.01.1991. The appellant/plaintiff was given selection grade inadvertently by the S.M.O Incharge, Primary Health Centre, Mamdot, even though her name did not appear in the said list. Thereafter, S.M.O Incharge, Primary Health Centre, Mamdot re-fixed the pay of the appellant/plaintiff and on the said basis, retiral benefits were paid as per the rules.

It was further alleged that there was no delay on the part of respondents-defendants for release of pension and gratuity, rather, the delay was on the part of the appellant/plaintiff because the appellant/plaintiff signed the pension papers on 23.05.1994 and the same were sent to the Accountant General, Punjab on 30.06.1994. The appellant/plaintiff failed to send photographs till 28.07.1994. Thereafter, the Accountant General, Punjab, sanctioned pension on 28.09.1994. In regard to the GPF, it was submitted that the appellant/plaintiff did not submit the application as per Form-10, required under the rules for payment of GPF. As delay in releasing the retiral benefits to the appellant/plaintiff was not a fault on the part of the respondents-defendants, as such, the appellant/plaintiff was not entitled for any interest. Thus, the suit was liable to be dismissed.



4. From the pleadings of the parties, learned trial Court framed the following issues:-

“1. Whether the pension & leave encashment paid to the plaintiff is not as per rules and regulations and is being paid less than the plaintiff as is entitled? OPP.

1-a. Whether the plaintiff is entitled to payment of gratuity? OPP.

2. Whether the plaintiff is entitled to the interest on the service benefit of gratuity, leave encashment upto 24% per annum due to the delay of defendants? OPP.

3. Whether the plaintiff is entitled to declaration as prayed for ? OPP.

4. Whether the suit is bad for non-joinder of necessary parties? OPD.

5. Whether the suit is maintainable in the present form ? OPP.

6. Whether valid notice u/s 80 C.P.C. has been served by the plaintiff ? OPP.

7. Whether the Court has jurisdiction? OPP.

8. Relief.”

5. The learned trial Court, after taking into consideration the evidence led by the parties, decreed the suit in favour of the appellant/plaintiff to the extent that the appellant-plaintiff was entitled for release of balance amount of gratuity and GPF with interest @ 18% per annum from the due date of payment till actual payment is made. The appellant/plaintiff was also held entitled for interest at the said rate on the



amount of leave encashment from the due date till actual payment was made. The suit of the appellant-plaintiff to the extent that she was entitled for pensionary benefits and other benefits on the basis of last pay i.e. Rs. 2030/- as on 01.01.1994 was rejected. The appellant-plaintiff was held entitled to last drawn pay @ Rs. 1910/- per month on retirement.

6. Aggrieved against the judgment and decree dated 25.01.1999 passed by learned trial Court, both the appellant/plaintiff and respondents-defendants preferred appeals before the learned lower Appellate Court.

7. The case of the appellate/plaintiff before the learned lower Appellate Court was that the appellant/plaintiff was drawing pay along with allowances of Rs.2030/- at the time of retirement, therefore, the appellate/plaintiff was entitled for grant of retiral benefits taking into consideration the last pay drawn as Rs.2030/-. It was also the case of the appellate/plaintiff that if benefit of selection grade was wrongly given to the appellant/plaintiff, even then, before withdrawing the same, notice and opportunity of hearing had to be given to the appellate/plaintiff as no notice or opportunity of hearing was given before withdrawal of selection grade. As such, there was no justification in withdrawing the selection grade and refixing the pay of the appellant/plaintiff.

8. The case of the respondents-defendants in appeal was that as the selection grade was wrongly given to the appellant/plaintiff, the mistake was rectified and the selection grade was duly withdrawn and the



pay of the appellant/plaintiff was refixed. After refixation of pay, i.e. last drawn pay, retiral benefits were paid to the appellant/plaintiff. It was further alleged that as it was a case of rectification of mistake, as such, there was no delay on the part of respondents-defendants in releasing the retiral/pensionary benefits, rather the delay was on part of the appellant/plaintiff, as such, respondents-defendants were not liable to pay any interest on the alleged delayed payment of retiral benefits.

9. The learned lower Appellate Court vide judgment and decree dated 23.07.2001 dismissed both the appeals. A perusal of the judgment and decree passed by the learned lower Appellate Court would show that a finding has been given that the appellant/plaintiff was wrongly granted the benefit of selection grade. It was held that the last drawn pay of the appellant/plaintiff has been rightly calculated as Rs.1910/-. It was further held that as there was a delay in disbursement of some retiral benefits by the respondents-defendants, the appellant/plaintiff has rightly been held entitled for grant of 18% interest per annum on delayed payment of retiral benefits.

10. Aggrieved against the judgment and decree dated 23.07.2001 passed by the lower Appellate Court, the appellant/plaintiff has filed the present appeal.

11. The only contention raised by the learned counsel appearing on behalf of the appellant/plaintiff is that even for the sake of the arguments, it is presumed that selection grade was wrongly given, even



then, before withdrawing of the selection grade, it was mandatory on the part of the respondents-defendants to give notice and opportunity of hearing to the appellant/plaintiff. As no notice and opportunity of hearing was given before withdrawing of selection grade by the respondents-defendants, as such, last drawn pay of the appellant/plaintiff should have been taken as Rs.2030/- and on that basis, retiral benefits should have been calculated and given to the appellant/plaintiff.

12. Learned counsel appearing on behalf of the respondents-defendants submits that as selection grade was wrongly given and the mistake was rectified, as such, the last drawn pay was rightly be calculated as Rs.1910/- per month and on the basis of above-mentioned last pay drawn, the retiral benefits were calculated and released to the appellant/plaintiff. It was further submitted that in regard to notice or opportunity of hearing to be given to the appellant/plaintiff before withdrawing the selection grade is concerned, if, mistake is apparent on the face of the record, the rectification thereof is permissible even without giving any notice or opportunity of hearing to the parties. As such, the appellant/plaintiff is not entitled to any relief.

13. After hearing the parties at some length, the issues involved in the present appeal are:-

- (i) whether selection grade could have been withdrawn without giving notice and opportunity of hearing and,



(ii) whether, the last pay drawn in the case of the appellant/plaintiff should have been taken as Rs.1910 or Rs. 2030/- for the purpose of calculating the retiral benefits.

14. A perusal of the facts of the case would show that it is an admitted fact that the appellant/plaintiff was granted the benefit of selection grade by mistake, on the basis of which, her pay was fixed. At the time of releasing the retiral benefits, it came to the notice of respondents-defendants that selection grade was wrongly given to the appellant/plaintiff. The name of the appellant/plaintiff did not appear in the list of employees, to whom selection grade was to be given. The mistake was rectified and pay of appellant/plaintiff was refixed and retiral benefits were calculated and released to the appellate/plaintiff.

15. In regard to only contention raised by the counsel appearing on behalf of the appellant/plaintiff that no notice and opportunity of hearing was given to the appellant/plaintiff before withdrawing the selection grade is concerned, it is well settled law that mistake can always be rectified. An employee does not have any right in case of mistake. It is also well settled law that if the result would be the same and there is no occasion to take a different view even after giving notice and opportunity of hearing to an employee, mistake can always be corrected without giving notice and opportunity of hearing to an employee. It is not the case of the appellant/plaintiff that she was entitled for selection grade as per the rules.



16. Reliance is made to the judgment of the Hon’ble Supreme Court titled as **Union of India and others Vs. Bikash Kumar, 2006(4) SCT 539.** Relevant extract of the judgment is reproduced below:-

“It is now trite that if a mistake is committed in passing an administrative order, the same may be rectified. Rectification of a mistake, however, may in a given situation require compliance of the principles of natural justice. It is only in a case where the mistake is apparent on the face of the records, a rectification thereof is permissible without giving any hearing to the aggrieved party.”

17. Taking into consideration the facts of the case that appellant/plaintiff was not entitled for grant of selection grade and there was a mistake apparent on the face of the record while fixing the pay of the appellant/plaintiff taking into consideration the selection grade, this Court finds no infirmity or illegality in the judgment and decree dated 23.07.2001 passed the learned lower Appellate Court.

18. In view of above, the present appeal is dismissed.

19. Pending miscellaneous application(s), if any, also stand(s) disposed of.

(DEEPINDER SINGH NALWA)
JUDGE

14.11.2025
Ramandeep Singh

Whether speaking / reasoned	Yes / No
Whether Reportable	Yes/ No