

SUPREME COURT OF INDIA

State of Punjab & Anr.

Vs.

Harbhajan Kaur

C.A.No.551 of 2008

(K.Balakrishnan,CJI. R.V. Raveendran and Dalveer Bhandari,JJ.)

21.01.2008

ORDER

(Arising Out of Special Leave Petition (C) No. 10668 of 2006)

1. Leave granted.
2. Heard both sides.
3. The respondent herein filed a civil suit alleging that she was not appointed by the State, though selected for the post of Mid-wife, while other candidates with lesser merit were appointed on 17.6.1986. The suit was decreed on 31.7.1997 declaring that the appellant was entitled to be appointed and directing the appellant State to consider her for appointment within a period of three months from the date of decree. The State went in appeal against the decree and that appeal was dismissed. The State filed a second appeal which was dismissed and the SLP filed by the State was also dismissed. Only thereafter, the respondent was appointed on 31.8.2000.
4. The respondent filed a fresh suit claiming that she should have been appointed with effect from 17.6.1986 with all consequential benefits including salary and allowances. That suit was dismissed. The First Appellant Court, however, decreed the suit in part and declared that she was entitled to all monetary benefits, seniority and length of service with effect from 8.10.1991 (the date of filing the first suit). The High Court, by the impugned Judgment has affirmed the said decree.
5. We find that in the first round of litigation, the only direction was to consider the respondent for appointment and appoint her within three months, that is on or before 31.10.1997. There was no direction to appoint the respondent with retrospective effect or to give monetary or other benefits from such retrospective date. That judgment attained finality. Therefore, the appointment had to be made prospectively, after the date of judgment dated

31.7.1997. Therefore, the direction given in the second round of litigation to make the appointment of respondent effective from 8.10.1991 cannot be sustained.

6. As per the decree dated 31.7.1997 in the first round litigation, the respondent ought to have been appointed within three months from that date, that is 31.10.1997. But we find that on account of that decree being challenged, the respondent was appointed only on 31.8.2000. In the circumstances, the respondent was entitled to get the benefits of appointment including salary and allowances only from 1.11.1997, as per the decree dated 31.7.1997. In the result, we allow this appeal in part and modify the decree by substituting the effective date of appointment of respondent as 1.11.1997. Consequently, the State shall also pay salary and allowances to the respondent only from 1.11.1997 and not from 8.10.1991. No costs.