

SUPREME COURT OF INDIA

Babu Lal

Vs.

Haryana State Agricultural Mkt. Board

C.A.No.884 of 2009

(Tarun Chatterjee and V.S.Sirpurkar JJ.)

11.02.2009

JUDGEMENT

Tarun Chatterjee J.

1. Leave granted.

2. This is a plaintiff's appeal in a suit for a decree for payment of salary from 2nd of November,1995 to 30th of March, 2001 and for other incidental reliefs which is directed against the judgment dated 27th of November, 2006 passed by the High Court of Punjab and Haryana at Chandigarh in RSA No. 2795 of 2005 (O & M) whereby the High Court had allowed the second appeal and dismissed the suit of the plaintiff - appellant.

3. The parties went into trial and adduced evidence in support of their respective cases. After framing issues and after considering the evidence, documentary and oral, the trial Court dismissed the suit. In appeal, the appellate court, relying on a judgment of this Court in the case of *Union of India etc. etc. vs. K.V.Jankiraman etc.etc.*¹ reversed the decision of the trial court and decreed the suit of the plaintiff - appellant. In the second appeal, the High Court relied on the aforesaid decision of this Court on which reliance was also placed by the appellate court, but after applying the principles laid down in the said decision and also on consideration of Exhibit P-5 held that the appellant was not entitled to any relief and allowed the second appeal and dismissed the suit.

4. Feeling aggrieved, the plaintiff, who is now appellant before us, filed a special leave petition, which on grant of leave, was heard in the presence of the learned counsel for the parties.

5. We have heard Mr.Mahinder Singh Dahiya, learned counsel for the plaintiff - appellant and Mr.Ambuj Agarwal for the defendant - respondent. We have examined the judgment of the High Court passed in the second appeal as well as the judgments of the courts below and other materials on record. At the risk of repetition, while dismissing the suit and setting aside the judgment of the appellate court, the High Court relied on the decision of this Court in

Jankiraman's case (supra) and on a document being Exhibit P-5, which shows that the plaintiff - appellant had only worked as Executive Officer of the respondent from 28th of March, 1997 to 31st of July, 1997.

6. A reading of the aforesaid decision of this Court would show that the authorities are vested with power to decide whether an employee at all deserves any salary for the intervening period and if he does, the extent to which he deserves it.

“This decision also clearly suggests that there is no inflexible rule that in every case when an employee is exonerated from disciplinary/criminal proceedings, he should be automatically entitled to salary including all benefits for the intervening period. This decision of this Court would also show that where the acquittal of an employee in a criminal proceeding was on benefit of doubt, the employer has a right to decide whether or not such an employee deserves any salary for the intervening period. Keeping these observations of this Court in mind, let us now consider whether the High Court was justified in holding that in the admitted facts of this case, the appellant was entitled to the salary as claimed. The Office Memorandum of the respondent clearly shows that the appellant who was working as Assistant Secretary, Marketing Board, Hasanpur was promoted to the post of E.O.-cum-Secretary with effect from 2nd of November, 1995 in the pay scale of Rs.2000-20- 2300-EB-75-3200 and further revised with effect from 1st of January, 1996 to Rs.7450-225-11500. In the said office memorandum, it was also made clear that no arrears of pay would be made for the period for which he had actually not worked.”

7. The High Court, in its impugned judgment, reversed the finding of the Appellate Court on consideration of Exhibit P5 and also applying the principles laid down in Jankiraman's case (supra) held that Exhibit P-5 would show that the plaintiff - appellant had worked with the respondent as an Executive Officer only from 28th of March, 1997 to 31st of July, 1997. Relying on this document and also on the aforesaid decision of this Court, the High Court dismissed the suit and held that the plaintiff/appellant was not entitled to salary from 2nd of November, 1995 to 30th of March, 2001. Although the findings of the High Court, as noted herein above, may not be very clear, but on consideration of the entire materials on record including Exhibit P-5 and the principles laid down in Jankiraman's case (supra), we do not find any reason to set aside the judgment of the High Court passed in the aforesaid second appeal. The Appellate Court, while reversing the finding of the trial Court, as noted herein earlier, held that the competent authority had not recorded any legal, valid and acceptable reasons for denying the arrears of salary to the plaintiff - appellant to whom promotion was denied due to criminal prosecution and departmental proceeding which exonerated him ultimately. A bare perusal of Exhibit P-5 on which reliance was also placed by the High Court in the impugned judgment would show that the plaintiff-appellant had worked as Executive Officer from 28th of March, 1997 to 31st of July, 1997, but this would not mean that he would be entitled to salary from 2nd of November, 1995 to 30th of March, 2001. A further perusal of Exhibit P-5 would also show that the plaintiff-appellant was only given additional charge to look after work of EO-cum-Secretary in addition to his duties as Assistant Secretary until further orders. It would also be evident from Exhibit P-5 that

additional charge was given without any extra remuneration. At the risk of repetition, the aforesaid office memorandum would also make it clear that no arrears of pay will be made for the period for which he had actually not worked. That being the position, we are not in a position to upset the conclusions arrived at by the High Court in the aforesaid second appeal which is impugned before us in this appeal.

8. Accordingly, we affirm the judgment of the High Court and restore the judgment of the trial court and dismiss the suit of the plaintiff -appellant.

9. For the reasons aforesaid, the appeal is dismissed and the judgment and decree of the High Court passed in the aforesaid second appeal is hereby affirmed and that of the trial court is restored. There will be no order as to costs.

¹[AIR 1991 SC 2010]