

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 3203 of 2015 (O&M)

Date of decision: 14.05.2015

Union of India and others

... Petitioners

versus

Roshan Lal and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vipul Aggarwal, Advocate for the petitioners.

K.Kannan, J.

The judgment debtor is the revision petitioner before this Court. He raised an objection to the execution petition filed by the decree holders seeking for their entitlement for consideration for promotion from the post of cleaners to the post of drivers pursuance to the proficiency trade test dated 25.08.2001 with consequential benefits. The defence was that the petitioners could be treated as promoted only from the year 2006 and the decree itself was ambiguous in not setting out clearly in its terms about the date from when the promotion was to take effect. According to the Union, the Executing Court cannot accommodate a plea of the decree-holders that they could be promoted from the date when they passed the test on 25.08.2001.

The Executing Court while considering the objections had observed that the decree merely allowed for the reliefs as sought for by the plaintiff that they should be promoted pursuance to the clearance of the proficiency trade test on 25.08.2001 and the mandatory injunction for consequential benefits. Having regard to the absence of the specific details about when it shall take effect, the Court below stated the law correctly that if there is any difficulty in giving effect to the decree, the

Executing Court shall go in to the judgment and the respective contentions of the parties at the time when the judgment is pronounced to elicit the actual purpose of the decree that may remain hidden in the express discourse. The Court took notice of the fact that direct recruitment made through the 2nd trade test and disqualifying the plaintiffs were not justified and that the plaintiff's clearance of the proficiency trade test dated 25.08.2001 must have been taken as the date when they were fit for the promotion. However, since direct recruitments were appointed on 01.05.25 pursuance to the proficiency trade test, which was 2nd proficiency trade test for the plaintiffs, the Court observed "whereas other persons who had cleared same test dated 25.08.2001 along with decree holders have been permitted way back on 01.05.2005," the decree holder shall also be taken as promoted from the said date.

The counsel for the Union states that the promotion must be given only from the date when they joined in the year 2006 and there is no rule for granting the promotion retrospectively. Both these arguments are frivolous. If through the same test some other persons have been granted the posts as drivers and it had been unjustly denied only to the plaintiff and that was how the trial Court had considered that issue when the plaintiffs were constrained to file the suit, it is untenable to contend that the plaintiffs were seeking for retrospective promotion. On the other hand, they are claiming for promotion on the basis of proficiency trade test and the Executing Court has correctly assessed that the promotion will take place from the same date when other persons who had passed the 2nd proficiency trade test had been granted the post on fresh recruitment.

I find the observations to be appropriate and the Executing Court had considered what was the correct approach to give effect to a decree by assessing the real controversy between the parties and how the decree could be put in execution. The order passed is perfectly justified and correct and there is no error for interference in the

revision.

The revision petition is dismissed with the above observations.

14.05.2015

kv

(K.KANNAN)
JUDGE