

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

R.S..A. No. 1898 of 1990 (O&M)

Date of decision : 08.04.2015

Hardial Singh

...Appellant

versus

State of Punjab and others

..Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Prateek Gupta, Advocate
for the appellant

Mr. Vaibhav Sharma, DAG, Punjab

Ms. Akshita Chauhan, Advocate
for respondent No. 3

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI , J.

Plaintiff/Appellant (for short' the appellant') has come up in Regular Second Appeal against the concurrent finding recorded by both the Courts below whereby the suit of the appellant was dismissed.

The appellant filed a suit for declaration and mandatory injunction that he is entitled to and deemed to have been promoted as Junior Mechanic in the scale of Rs.450-800 from the date he passed the matriculation examination i.e from September, 1981 with all rights, benefits and from the date of promotion of defendant No.

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3/respondent No. 3.

The appellant was working as Cleaner for the last more than 20 years and he was non-matriculate at the time of his appointment and he is a confirmed employee. The grievance of the appellant was that the respondent No. 3 junior to him was promoted having the fake degree of matriculation.

The respondents appeared before the trial Court and took a stand that for promotion to the post of Jr. Mechanic, the eligibility qualification was matric pass with three years experience for class IV employee. The respondent No. 3 was eligible for promotion as when he was promoted in the year 1977, he was matric pass. The appellant filed a suit on 23.03.1986 and the suit of the appellant was held to be time barred as respondent No. 3 was promoted in the year 1977, and thus was dismissed by the trial Court. An appeal filed against this judgment was also dismissed by the Lower Appellate Court and held that the time of promotion of respondent No. 3, the appellant was found unfit for technical post. Respondent No. 3 was technically sound and possessed required qualification according to the departmental draft service rules. Moreover, as per Ex PA, the applicant should have the qualification of matric pass for promotion. Further, the appellant was ignored for promotion in the year 1977 and he filed the suit in the year 1986 after a gap of almost 09 years, thus, was barred by

limitation.

Since respondent No. 3 had the requisite qualification i.e matric pass and was technically sound for appointment to the post of Jr. Mechanic, the judgments passed by both the Courts below do not require any interference by this Court. No substantial question of law arises for consideration.

The regular second appeal is dismissed.

(RITU BAHRI)
JUDGE

08.04.2015

G Arora