

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

**Regular Second Appeal No.541 of 1991 (O&M)
Date of decision: 27.05.2015**

The State of Punjab

.....Appellant

Versus

Kuldip Singh

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vaibhav Sharma, DAG, Punjab,
for the appellant.

Mr. Harsh Manocha, Advocate,
for the respondent.

Ritu Bahri, J.

State of Punjab-defendant has come up in regular second appeal against the judgment of reversal dated 15.10.1990 passed by the Additional District Judge (III), Sangrur, whereby appeal filed by the plaintiff-respondent has been accepted and his suit for declaration has been decreed to the effect that his seniority be fixed at proper place and he be considered to have been promoted as Headwarder w.e.f. 02.12.1986.

Kuldip Singh-plaintiff filed a suit for declaration to the effect that the promotion list prepared on 02.12.1986 to promote Headwarders from eligible Warders by the Screening Committee of the office of Inspector General of Prisons, Punjab, was null and void. The plaintiff was posted as Warder in the year 1963. He appeared in the test and interview before the Superintendent, Central Jail, Bathinda, for promotion to the post of Headwarder. However, as per list dated 02.12.1986, the Screening

Committee appointed by the Inspector General of Prisons, Punjab, Chandigarh, recommended the name of a junior Warder to be appointed as Headwarder. As per the plaintiff-respondent, the promotion list dated 02.12.1986 was not prepared correctly by the Jail Department of Punjab.

Upon notice, the defendant-appellant filed a written statement stating therein that the plaintiff-respondent was awarded punishment for negligence of duty on various occasions. He was also awarded black marks on account of absence from duty w.e.f. 24.04.1969 to 30.04.1969. He was further stated that the service record of the plaintiff was not upto the mark and his performance was found unsatisfactory by the Screening Committee, therefore, his name was not recommended for promotion.

The trial Court dismissed the suit of the plaintiff-respondent by observing that as per the deposition of Ikatar Singh, Jail Superintendent, Faridkot (DW-1), Davinder Singh, DIG (DW-2), Baldev Singh Bhullar, Superintendent, Jail (DW-3) and entries, Ex.D1/A, Ex.D/B, Ex.D1/C, Ex.D1/E, Ex.E1/E made in the service book of the plaintiff, the Screening Committee had considered the seniority-cum-merit for recommending the names of eligible warders for promotion as headwarders. As per list, Ex.DW2/A, marks given to the candidates of Bathinda Circle had been approved by all the members of the Screening Committee, including the Chairman and cuttings had also been sufficiently proved at the same time. The plaintiff could not take any benefit out of the cuttings, which were made in the marks sheets of the candidates who were interviewed by the Screening Committee. Service records of the candidates were checked and whoever got high marks, was recommended. As per service book, Ex.D1 and entries, Ex.D1/A to Ex.D1/E, the performance of the plaintiff in the written test and

record, written test, parad test, drill/interview. The plaintiff had been awarded four adverse entries and he had gained 23 marks in the written test, 3 marks in interview and 5 marks in efficiency and drill. Since he had not gained 1/3rd of the total marks, his name was dropped. It was observed that simply on the basis of seniority, his case could not be considered for promotion. Ultimately, his suit was dismissed.

The lower appellate Court, on appeal, set aside the judgment of the trial Court. While accepting the appeal, it was observed that as per list, Ex.DW2/A and B, prepared by the Screening Committee for promoting the warders pertaining to Bathinda Circle, name of the plaintiff appeared at serial No.6. Another candidate namely Surjit Singh, who obtained less marks than those obtained by the plaintiff, was subsequently, promoted as Headwarder. Initially, his name had not been recommended by the Committee. This fact was overlooked by the trial Court. The trial Court proceeded on the assumption that the cuttings made in the numbers of the candidate(s), who had secured less marks, had been corrected while referring the case to the higher authorities. But, the lower appellate Court found that the name of the candidate at serial No.3 namely Surjit Singh, had not been recommended earlier. Subsequently, by doing cuttings in the result with different ink, his name was recommended by the Screening Committee. In the absence of any specific reason, the plaintiff being senior should have been recommended prior to Surjit Singh, who was placed at serial No.3. With these observations, the lower appellate Court decreed the suit of the plaintiff to the effect that he be considered to have been promoted as Headwarder from 02.12.1986 along with all consequential benefits.

After going through the judgment passed by the lower Appellate

plaintiff-respondent had secured higher marks than Surjit Singh, who was placed at serial No.3. Initially, name of Surjit Singh had not been recommended by the Screening Committee, but subsequently, there was change in his marks with a different ink. Moreover, the service record of the plaintiff for the years 1984-85 was satisfactory and was assessed as 'good'. However, name of a candidate at serial No.3 namely Surjit Singh, though he had obtained less marks, had been recommended after doing cuttings in the result prepared by the Screening Committee. As per initial list, Ex.DW2/A, his name had not been recommended.

Having examined the judgment passed by the lower appellate Court, no illegality, much less perversity, has been found therein warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

27.05.2015
ajp

(RITU BAHRI)
JUDGE