

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

RSA No. 1018 of 2011 (O&M)

Date of decision: 27.08.2015

Dakshin Haryana Bijli Vitran Nigam Ltd. And others

..... Appellants

versus

Dheeraj Kumar

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Praveen Gupta, Advocate for the appellants
Mr.B.S.Mittal, Advocate for the respondent

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Challenged in the present regular second appeal is the judgment and decree dated 17.10.2010, passed by the learned Additional District Judge (Fast Track Court), Sirsa, affirming the judgment and decree dated 27.1.2010, passed by the learned Civil Judge, Junior Division, Sirsa, vide which, suit of the plaintiff was decreed for declaration to the effect that the plaintiff is entitled to be appointed against a post one step lower than that on which his father was posted or on the post to which he is eligible on the basis of his qualifications under the defendants. The defendants were accordingly directed to appoint the plaintiff within a period of two months from the date of the judgment.

I have heard learned counsel for the parties and have

also carefully perused the file.

The brief facts relevant for the purpose of disposal of the present appeal are that Shri Om Parkash Thareja, a Meter Reader was employee of the defendants-appellants. He died in harness on 1.11.1993. At that time, Smt.Kailash (mother of the plaintiff) applied for ex gratia appointment of the plaintiff by submitting the requisite documents to the defendants. Defendant no.4 had sent said documents to defendant no.2 vide memo dated 12.12.1993 and 22.12.1993. Since the plaintiff was minor at that time, therefore, it was assured to him that when he will attain majority he will be appointed on compassionate ground. Undisputedly, plaintiff became major on 5.12.2004. Thereafter again, application was filed by the mother of the plaintiff and plaintiff himself which was declined by the orders dated 10.12.2004 and 13.10.2005. In appeal made before defendant No.2 the plaintiff impugned the order dated 10.12.2004 and 13.10.2005 on various grounds inter alia that instructions dated 24.3.2001 issued by the Government will be applicable in the case of the plaintiff, that when the mother of the plaintiff had applied for ex-gratia appointment of the plaintiff, the defendants had fully assured her to give the appointment to the plaintiff upon attaining the age of majority. Undisputedly at the time when the application was filed in the year 2004, the policy of year 2003 was in force vide which the compassionate appointment could be made. The perusal of the impugned orders shows that compassionate appointment was declined only on the ground that the facility of compassionate appointment does not subsist for indefinite period. It is argued that it

could be availed only within three years of the death of the employee.

Matter was considered by both the Courts below. It has come out that the plaintiff was minor and there could be no such embargo on time period against him so long he remained minor. He became major on 5.12.2004 and immediately thereafter applied afresh for the compassionate appointment. Therefore, said period of three years would have started from the date he became major.

It being so, there is no illegality or infirmity in the orders passed by both the Courts below. No substantial question of law arises in the present appeal. Hence, the appeal is dismissed.

The appellants shall issue the appointment letter within two months from the date of the present orders.

In view of disposal of the appeal, all the pending applications also stand disposed of.

27.08.2015

gk

(Kuldip Singh)
Judge