

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

Regular Second Appeal No.5345 of 2012 (O&M)

Date of decision: **03**.09.2015

Inderjit Singh

... Appellant

versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Santosh Sharma, Advocate,
for Mr. Sham Lal Bhalla, Advocate,
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J.

1. The appellant is the plaintiff. He sought for a declaration that an order made by the respondents-authorities in consigning him to his substantive post which was Beldar was null and void. According to him, he was officiating in a higher post as a Clerk and the order had been passed without adequate notice. He had already become eligible for appointment to the higher post and the repatriation to his original post was erroneous.

2. The issue for consideration was whether the particular post which he was holding was a substantive post or it was merely an officiation in the higher post. It was brought out in evidence that

he was holding a duty charge in higher post and he had been also allowed to participate in an eligibility test for occupying the higher post which was a 'type test'. He had passed the type test but since there were only 7 vacancies and he was at seniority No.21, he could not be promoted. It was contended on behalf of the plaintiff that since he had been ranked 1 in the type test, he should have been promoted. The court considered the issue of the type test as merely an eligibility criterion and the promotion was on the basis of seniority-cum-eligibility. Since there had been several persons juniors to him who had to be filled up in the available vacancies, the plaintiff could not be retained in the higher post which he was officiating. The court found that there was no error in the order passed by the authorities, remitting him to the post which was substantively held by him and dismissed the suit and later in appeal.

3. I find no error for interference in second appeal. Second appeal is dismissed.

(K.KANNAN)
JUDGE

03.09.2015

sanjeev