

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 2263 of 2014 (O&M)
Date of decision: 30.6.2015

Haryana State Agricultural Marketing Board

.. Appellant

v.

Satish Kumar

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

**Present: Mr. D. S. Nalwa, Advocate for
Mr. Gagandeep Singh Wasu, Advocate the appellant.**

...

Rajesh Bindal J.

The defendant is before this court against concurrent findings of fact recorded by both the courts below, whereby the suit for declaration filed by the respondent-plaintiff to the extent that he was entitled to difference in pay and allowances on account of re-fixation of his pay with grant of retrospective promotion, was decreed.

Briefly, the facts, as are available on record, are that the respondent-plaintiff joined the appellant-establishment as a Peon. He was promoted as Auction Recorder on 24.12.1999. However, later on, he was granted promotion as Auction Recorder w.e.f. 2.9.1986 from the date his juniors were promoted, vide order dated 18.12.2007, but for the period of his retrospective promotion as Auction Recorder, he was denied arrears of salary on the principle of 'no work no pay'.

Impugning the judgments of both the courts below, learned counsel for the appellant submitted that there were valid reasons for not granting promotion to the respondent-plaintiff in the year 1986, when his

juniors were promoted as he had not passed the typing test, which was required as per the instructions. However, he did not dispute the fact that in the Rules governing the post, there was no requirement of passing typing test. It was further submitted that there being instructions issued by the appellant providing for non-payment of arrears on account of retrospective promotion and the same having not been challenged, the respondent could not be held entitled to difference in pay on account of retrospective promotion as principle of 'no work no pay' would apply.

After hearing learned counsel for the appellant, I do not find any merit in the submissions made. It is not in dispute that the respondent-plaintiff was not granted promotion as Auction Recorder from the date persons junior to him were promoted. It is sought to be claimed on the plea that he had not passed typing test, but the fact remains that the appellant itself realised that as per the Rules, applicable for the post, passing of typing test was not required. Meaning thereby, initial non-consideration of the case of the respondent-plaintiff for promotion was contrary to the Rules. It was on that account only that the appellant granted retrospective promotion to the respondent-plaintiff w.e.f. 2.9.1986, the date from which his juniors were promoted, vide order dated 18.12.2007, as against his actual promotion on 24.12.1999. The respondent-plaintiff was not at fault. He never refused to work, in case opportunity was granted to him. There is no error in the view expressed by both the courts below in granting arrears of salary for the period the respondent-plaintiff was wrongly denied promotion to the post of Auction Recorder.

Even the plea that the instructions issued by the appellant providing for 'no work no pay' having not been challenged, the respondent was not entitled to any relief, is also merely to be noticed and rejected. The case of the respondent-plaintiff had been examined on merits by the courts below. The condition imposed in the order granting promotion to him from retrospective date regarding non-payment of arrears was found to be erroneous and set aside by the courts below. In such circumstances, the relief cannot be denied to the respondent-plaintiff merely on the ground that the instructions issued by the appellant were not challenged. There is no

error in the findings recorded by both the courts below.

No substantial question of law arises in the present appeal. The same is, accordingly, dismissed. Consequently, the accompanying applications are also dismissed.

(Rajesh Bindal)
Judge

30.6.2015
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