

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

RSA No.564 of 2015(O&M)

Date of Decision:-16.02.2015

Savita Devi.

.....**Appellant.**

Versus

Rajinder Kumar & Ors.

.....**Respondents.**

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Jagdish Manchanda, Advocate for the appellant.

JASWANT SINGH, J.(ORAL)

CM No.1597-C of 2014 has been filed under Section 5 of the
Limitation Act seeking condonation of six days delay in filing the appeal.

For the reasons stated in the application duly supported by
affidavit of appellant herself, the CM is allowed and delay of six days in
filing the present second appeal is condoned.

RSA No.564 of 2015

Defendant no.2-Savita Devi is in second appeal aggrieved
against the judgment and decree dated 5.11.2014 passed by learned
Additional District Judge, Chandigarh whereby the appeal preferred by the
private respondents/plaintiffs against the judgment and decree dated
16.03.2013 passed by the learned Civil Judge(Jr. Divn.), Chandigarh was
partly allowed and consequently, the plaintiffs/private respondents were
ordered to be considered for promotion in accordance with law.

appellant was not eligible to be promoted as Steno-typist from the post of Clerk as on 7.1.1991 as for the said promotion, two years of service as Clerk is required. Thus, from the statement of this witness it is abundantly clear that appellant was not promoted to the post of Steno-typist and rather she joined as a fresh appointee w.e.f. 7.1.1991. Learned Counsel for the appellant has not been able to point out any order passed by the competent authority i.e. defendant no.1-Government whereby the past service rendered by appellant on the post of Clerk prior to 7.1.1991 was to be counted towards her seniority. Under these circumstances, as per the seniority list promotion of defendant no.1 from time to time cannot be said to be correct. Rather the same is erroneous with regard to the date of appointment of defendant no.2 because in the seniority list prepared by defendant no.1 the date of appointment of appellant/defendant no.2 has been mentioned as 22.1.1990 instead of 7.1.1991. This is a typographical mistake as is evident from the facts/evidence discussed above. Hence the appellant cannot be treated as senior to those employees who joined service prior to 7.1.1991.

As far as the question of delay is concerned, it is settled position of law that if the seniority list is per se illegal it will not dis-entitle the superseding employees to stake their claim over their right. The said proposition is based upon a simple logic that delay in filing a case should not defeat the rightful claim of the employees who, are working in their official capacity for numerous years together and putting in their hard work to the employer i.e. the State.

In view of the above, this Court does not find any illegality or perversity in the order passed by the learned lower Appellate Court and further finding no question of law much less substantial question of law

arising for determination in the present second appeal, the same is hereby
dismissed.

(JASWANT SINGH)
JUDGE

February 16, 2015
Vinay