

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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**RSA No. 348 of 2014 (O&M)**  
Date of decision : July 20, 2015

\* \* \* \* \*

Mohinder Singh

.....Appellant

Versus

Punjab State Power Corp. Ltd. and others

.....Respondents

\* \* \* \* \*

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

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Present: Mr. Hitesh Kaplish, Advocate for the appellant.

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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?*

**RITU BAHRI, J**

The plaintiff-appellant (hereinafter referred to as 'the plaintiff') has come up in this regular second appeal against the judgment dated 11.6.2012 passed by the Additional Civil Judge (Senior Division), Patiala whereby the suit of the plaintiff has been dismissed and the judgment dated 4.10.2013 passed by the Additional District Judge, Patiala whereby appeal against the judgment of the trial Court has been dismissed.

Plaintiff filed the suit for declaration to the effect that the

order of the defendants denying deem date promotion to him w.e.f 29.9.1990, when similarly situated employees Bhupinder Singh and others were granted promotion as Assistant Lineman and not granting all the service benefits i.e proficiency step up, 9/16 years promotional scale by reckoning his service w.e.f 29.9.1990 as Assistant Lineman is illegal null and void.

The plaintiff was appointed to the post of Work Charge Chowkidar on 30.5.1980 and promoted to the post of regular T-mate on 2.11.1988 and joined as Regular T-mate on 16.11.1988. He was further promoted to the post of Assistant Lineman on 20.9.1996 and joined as Assistant Lineman on 18.10.1996. The case of the plaintiff is that Bhupinder Singh was promoted to the post of Assistant Lineman on 29.9.1990 whereas both of them joined the service of the Board on the same day. As per the plaintiff he has been discriminated as he was not given promotion w.e.f 29.9.1990 in spite of being similarly situated. Bhupinder Singh had filed a suit for declaration claiming deem date of promotion w.e.f 29.9.1990 i.e the date on which his junior was promoted. His suit was decreed by the Court of Senior Sub Judge, Sangrur on 18.6.1995. When the plaintiff came to know about the grant of deem date of promotion to Bhupinder Singh on 20.5.2003, he made representation to Assistant Engineer Operation Sub Division Sehna on 26.5.2003. His representation was forwarded to the Senior Executive Engineer, Operation Division, Barnala by Assistant Engineer Sehna. The case of the plaintiff for deemed date of promotion was further sent to

defendant no.2 by defendant no.3 vide letter dated 13.10.2003. Finally the defendants rejected his case for deemed date of promotion vide letter dated 2.9.2005. Reference was made to a case of one Mani Ram who has been granted deem date promotion w.e.f 21.7.1998. As per the policy of the Board, work charge employees having service of more than 2555 days are entitled to be promoted as Assistant Lineman in case of non matriculates and in case of matriculates employees, they were to be promoted on completion of service of 1825 days. As per the plaintiff, he being non-matriculate and having completed 2555 days of service in the year 1985, he should have been promoted as Assistant Lineman in the year 1985.

Following issues were framed by the trial Court :

- 1. Whether the plaintiff is entitled to declaration, as prayed for? OPP.*
- 2. Whether the plaintiff is entitled to mandatory injunction, as prayed for?OPP.*
- 3. Whether the suit of the plaintiff is time barred?OPD.*
- 4. Whether the suit is not maintainable in its present form?OPD.*
- 5. Whether the plaintiff has no cause of action to file the present suit?OPD.*
- 6. Whether the suit of the plaintiff is false and has been filed on vague and*

*frivolous allegations and is liable to be dismissed with cost?OPD.*

*7. Whether the civil Court has no jurisdiction to try the present suit?OPD.*

Both the Courts after going through the evidence led by the parties dismissed the case of the plaintiff. As per judgment Ex. P-1 rendered by the Court of Senior Sub Judge, Sangrur in the case of Bhupinder Singh it was found that he was eligible for promotion to the post of Assistant Lineman as he had undergone training of three months in the Technical Training Institute of the Board in order to become eligible for promotion as Assistant Linemen. In these circumstances, he became eligible for promotion and a direction was given by the trial Court that he should be considered for promotion as Assistant Lineman w.e.f 28.9.1990 as he had completed training on the said date. The Board had issued a circular dated 10.10.1980 Ex.P21 in connection with the regularization of work charge staff. As per the said circular, it was provided that all the work charged employees who do not possess the requisite experience of maintenance/construction of lines should be sent to the Principal Technical Training Institute, Patiala to undergo practical training of the trade of Assistant Lineman for a period of three months. It was further provided that it would not be possible to provide training to all the eligible work charged employees simultaneously due to the limited capacity of the training institute and therefore in the meantime

the eligible employees should be posted as Tradesman and they should be regularized as Assistant Lineman only after the necessary training is received by them. Plaintiff was appointed as regular T-Mate in the year 1980 and he did not undergo the requisite training prior to his promotion as Assistant Lineman. He could not claim any parity with Bhupinder Singh who was granted deem date promotion as he had completed the said training. The plaintiff had never been deputed to undergo any training. The suit of Bhupinder Singh had been decreed in the year 1985 and the present suit was filed in the year 2006 and therefore his suit claiming deem date of promotion w.e.f 29.9.1990 has rightly been held to be barred by limitation. Vide letter dated 19.7.1995, earlier work charged chowkidars were not being considered eligible for the appointment as Assistant Lineman and the said anomaly was removed by the Board only vide letter dated 19.7.1995 Ex. D-1. The case of the plaintiff was considered without any delay and he was given promotion in the year 1996. He was not eligible for promotion as Assistant Lineman w.e.f 29.9.1990 as he had not undergone the requisite technical training as was done by Bhuinder Singh. Therefore he could not claim parity with Bhupinder Singh in claiming deem date of promotion w.e.f 29.9.1990.

Moreover, even on merits, the suit was rightly held to be time barred as the cause of action accrued in favour of the plaintiff in the year 1995 when the suit in favour of Bhupinder Singh had been decreed.

No substantial question of law arises for consideration in

this regular second appeal. Judgments passed by the Courts below do not require interference of this Court. The same are upheld and the regular second appeal is hereby dismissed.

July 20, 2015  
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( **RITU BAHRI** )  
**JUDGE**