

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 5257 of 2014

Date of decision : July 14, 2015

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Parshotam Dass Sharma

.....Appellant

Versus

The State of Punjab and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. P.S Khurana, 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

C.M No. 12401-C of 2014

C.M is allowed.

For the reasons mentioned in the application, delay of 2 days in filing the appeal is condoned.

RSA No. 5257 of 2014

The appellant-plaintiff (hereinafter referred to as 'the plaintiff') has come up in this regular second appeal against the judgment dated 4.8.2012 passed by the Civil Judge (Junior Division),

Ferozepur, whereby the suit filed by the plaintiff was dismissed and the judgment dated 19.5.2014 passed by the Additional District Judge, Ferozepur whereby an appeal against the judgment of the trial Court was dismissed.

Plaintiff filed the civil suit for decree of declaration to the effect that he is entitled to the grant of promotion as Centre Head Teacher from the date when vacancy existed i.e w.e.f 24.10.2005 and he is further entitled to fixation of his salary on the post of said post w.e.f 24.10.2005 along with all the consequential benefits. The grievance of the plaintiff was that defendant no. 3 i.e District Education Officer (Primary), Ferozepur had called for the cases of the Head Teachers for promotion as Centre Head Teacher vide letter dated 25.9.2005. As per Rules 75% posts of Centre Head Teacher are to be filled out of promotees whereas 25% posts are to be filled by direct recruitment. On the other hand the recommendation was made for promotion as Centre Head Teacher out of the female category pertaining to 15 posts from the promotees quota who were appointed on 24.10.2005 and which was in the excess of the quota and in fact four extra vacancies had been filled from the said quota. As regards Male Centre Head Teacher, 8 head teachers from the male category were promoted as Centre Head Teacher, whereas actually 17 posts were lying vacant thus leaving 9 posts still vacant at that very time. Plaintiff sent a notice under Section 80 of the Code of Civil Procedure to the defendants vide registered AD cover. On 24.10.2005, total 34 male and 42 females stood appointed as CHTs

and infact 10 vacancies were still lying vacant which comprised of 9 male and 1 female. This was disclosed by the defendant no.3 vide letter dated 26.6.2007 written to the defendant no.1 and copy of which was provided to the plaintiff only when he asked for the same under RTI.

After going through the evidence led by the parties, the trial Court dismissed the suit. Plaintiff filed an appeal against the judgment of the trial Court. In paragraph 20 and 21 of the judgment of appellate Court, it was observed that the plaintiff retired from service on 30.11.2005 and the suit was instituted in the year 2008. The plaintiff got re-employment again and again. It was the administrative act of the competent authorities to fill up the posts on promotion. It was not the case of the plaintiff that he had not been considered and somebody junior has been promoted as Centre Head Teacher. No directions can be given to the defendants to fill up vacancies by way of filing civil suit. The plaintiff after his retirement has worked on deputation as Distt. Co-ordinator Zila Sakharat Samiti Ferozepur with the ADC, Development, Ferozepur which term has also expired on 30.11.2006 and now regular appointment of the plaintiff has been made as District Co-ordinator. Appellate Court dismissed the appeal of the plaintiff and upheld the judgement of the trial Court.

In view of all that has been discussed above, no substantial question of law arises for consideration in this regular second appeal. Judgments passed by the Courts below do not suffer

from any misreading of evidence and law. Hence the same is dismissed.

July 14, 2015
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(**RITU BAHRI**)
JUDGE