

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. R.S.A No. 583 of 2014 (O&M)

U.H.B.V.N.L and others ...Appellants

versus

M.L. Sharma ...Respondent

2. R.S.A No. 585 of 2014 (O&M)

U.H.B.V.N.L and others ...Appellants

versus

M.L. Sharma ...Respondent

Date of decision : 20.04.2015

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Pardeep Singh Poonia, Advocate
for the appellant

Mr. R.K. Malik, Sr. Advocate with
Mr. Kuldeep Sheoran, Advocate
for the respondent

RITU BAHRI , J.

This order of mine shall dispose of the above two appeals i.e R.S.A No. 583 and 585 of 2014 wherein challenge is to the judgment dated 31.08.2013 passed by Civil Judge (Jr. Divn.) Kurukshetra and judgment 19.10.2013 passed by learned Addl. District Judge, Kurukshetra dismissing the appeal filed by the appellant and allowing the appeal filed by

the respondent

The respondent filed a suit for declaration with consequential relief of mandatory injunction, which was partly decreed on 31.08.2013 in his favour to the effect that he is entitled to deemed date promotion to the post of A.E from the date his junior namely Sher Singh was promoted with all consequential monetary benefits along with interest @ 6% per annum.

Against the aforesaid judgment, the appellant as well as respondent filed an appeal before the Lower Appellate Court. During the pendency of the appeal before the Lower Appellate Court, the department promoted the appellant on 04.10.2013 to the post of A.E w.e.f 30.12.2006 when his junior Sher Singh was promoted but the promotion was given notionally without any benefit of pay and no enhanced pay/salary has been given from that date. The appeal filed by the present appellant was dismissed and the appeal filed by the respondent was allowed to the effect that he is entitled for deemed promotion to the post of J.E Grade-I, AEE and Executive Engineer w.e.f 23.05.2003 over and above to his junior officials/officers Sh. Sher Singh, Sh. R.K.Sharma and Sh. A.P. Mishra etc. promoted and is legally and rightfully entitled for the consequential benefits i.e pay

fixation, arrears of pay fixation, revision of his retiral benefits i.e pension, gratuity, commutation of pension, leave encashment etc along with interest @18% per annum on all the claims.

I have gone through the judgments passed by both the Courts below.

The claim of the respondent was rightly considered by the trial Court at par with Sher Singh as he was junior to the respondent and was from the same source of recruitment. The respondent could not claim parity w.e.f 23.05.2003 at par with Baljit Singh as he was promoted under 12.5% promotee quota meant for engineering subordinates AMIE/BE and having five years experience, whereas respondent has been promoted w.e.f. 30.12.2006, the date his three juniors namely S/Shri Sher Singh, R.K. Sharma and A.P.Mishra were promoted under promotee quota of 22½ per cent meant for engineering subordinates with five years service as Junior Engineer-I (Diploma holder). Since the promotee quota meant for degree holders and diploma holders was distinct, respondent could not have put his claim with the degree holders.

This fact is not disputed by learned counsel appearing for the respondent.

In view of the above fact, the present appeals are being disposed of by modifying the judgment of the lower Appellate Court to the extent that respondent is entitled to promotion to the post of A.E w.e.f 30.12.2006 from the date his junior namely Sher Singh was promoted with all consequential monetary benefits along with interest @ 9% per annum on all claims.

20.04.2015

G Arora

(RITU BAHRI)
JUDGE