

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Revision No.66 of 2006 (O&M)
Date of Decision: December 09, 2016

**The Haryana State Electricity Board, Panchkula through its Secretary, now
UHBVNL, Panchkula & others**

...Petitioners

Versus

Narinder Nath Ahuja

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Vinod S. Bhardwaj, Advocate,
for the petitioners.

Mr.Anil Rana, Advocate for
Mr.Puneet Gupta, Advocate,
for respondent No.1.

Mr.Namit Kumar, Advocate,
for newly added respondent No.2.

AMIT RAWAL, J. (Oral)

CM No.13129-CII of 2016

The present application is at the instance of respondent No.2
for being transposed as petitioner owing to the bifurcation.

Respondent No.1-decree holder was the employee of
UHBVNL, but owing to the bifurcation, his service has gone to the Haryana
Power Generation Corporation Limited.

In view of the aforementioned fact, the application is allowed
and the respondent No.2 is being transposed and to be treated as petitioner
in place of UHBVNL.

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The grievance of the petitioner-erstwhile UHBVNL had been that as per the judgment and decree dated 20.10.1997 passed in Civil Suit No.337 of 1996 titled as “Narinder Nath Ahuja Versus The Haryana State Electricity Board, Panchkula & others”, wherein respondent No.1-plaintiff as decree-holder has sought declaration and permanent injunction, following decree was passed:-

“It is ordered that this suit of the plaintiff for declaration that he is entitled to promotional and other service benefits on the basis of his re-fixed seniority as Upper Division Clerk from the date of his provisional promotion with effect from 28.9.1967 is decreed with costs.”

While passing the aforementioned judgment and decree, reference has been made to a tentative seniority list dated 23.12.1996 in Para 7 of the judgment while rendering findings on issues No.1 and 2. The case of the decree holder before the trial Court was that no doubt he has been given promotion, but made junior to K.L.Gandhi and Daya Shanker in the seniority list. The seniority list relied upon was a tentative one, which was finalised on 3.4.1998, whereas prior in time, they were junior to him, but in view of the final seniority list, he has become senior and it is in this backdrop of the matter, he is entitled to seniority.

Mr.Namit Kumar, learned counsel appearing on behalf of the petitioner has drawn the attention of this Court to the order dated 5.11.2005 (Annexure P-8), whereby the Court before proceeding with the execution application, had availed the services of the Local Commissioner for determining the issues and on relying upon the report, ordered for compliance of the same, but the order was recalled at the instance of the

UHBVNL and said application was dismissed vide order dated 10.12.2005 (Annexure P-9).

Learned counsel for the decree-holder submits that in view of the final seniority list, the case of the petitioner squarely falls within the parameters of the judgment and decree and, therefore, cannot be said to be an independent cause of action and the judgment relied upon by the UHBVNL at the time of the revision petition, i.e., **State of M.P. Versus Mangilal Sharma**, AIR 1998 Supreme Court 743 to the extent that the Executing Court cannot go beyond the decree, much less the consequential effect of the judgment and decree cannot be granted, is not applicable in view of the facts narrated above.

I have heard the learned counsel for the parties, appraised the paper book and of the view that the order under challenge is not speaking one. The Executing Court should have dealt with the objections and the claim of the decree holder in extenso. The Court had taken into consideration the tentative seniority list of December, 1996, which has culminated into finalisation of the same on 3.4.1998, all these aspects should have been dealt with instead of heavily relying upon the report of the Local Commissioner, particularly as per the tentative seniority list, D.S.Bhardwaj and H.R.Sachdeva were junior, but in the final seniority list, have become senior. The Executing Court was required to discharge its obligation strictly as per the judgment and decree sought to be executed, which has attained finality.

Accordingly, the matter is remitted back to the Executing Court to decide the execution application and pass a detailed order after hearing the objections, if any, of the erstwhile UHBVNL as expeditiously as

possible.

The parties, through their counsel are directed to appear before
the Executing Court on 16.01.2017.

Revision petition stands disposed of.

December 09, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No