

CR-8405 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

CR-8405 of 2016

Date of Decision:20.12.2016

Union of India and others

---Petitioners

vs.

Roshan Lal and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vivek Singla, Advocate
for the petitioners

Rekha Mittal, J.

The present petition directs challenge against order dated 4.8.2016 (Annexure P-3) passed by the Civil Judge (Junior Division), Pathankot whereby application filed under Section 99-A of the Code of Civil Procedure (in short "CPC") for modification of order dated 19.3.2015 was dismissed.

The sole submission made by counsel for the petitioners is that as the other employees were promoted as Civilian Motor Drivers with effect from 8.8.2005 or 23.2.2006, the respondents/decreed holders are entitled to get promotion as such not from a date prior to 1.5.2005, therefore, order dated 19.3.2015 passed by the executing Court while disposing of the objections preferred by the petitioners is liable to be modified.

I have heard counsel for the petitioners, perused copy of the judgment and decree dated 13.1.2009, the order dated 19.3.2015 passed in the execution proceedings as well as the order impugned but find that the present petition is devoid of merit and deserves to be dismissed.

An operative part of the order dated 19.3.2015, reads as follows:-

“.....the decree was passed in favour of decreed holder directing the Jds to promote him as per proficiency test held on 25.8.2001 and Jds have now taken an objection that they have given the promotion but with effect from 26.4.2014. But as per the plea taken by the decreed holder his decree was passed in 2009 with the direction to give promotion to the decreed holder on the basis of proficiency test held on 25.8.2001 and other employees have given promotion by the Jds with effect from

1.5.2005 and as such he is also entitled for promotion with effect from 1.5.2005. As such, objections are without merit and the same are declined. Jds have also filed similar objections earlier which were also dismissed. Therefore, warrant of attachment be issued against the Jds for 16.5.2015.”

In the order dated 19.3.2015, there is no such finding recorded by the executing court that the decree holders are to be given promotion with effect from 1.5.2005 or from any particular date, therefore, the question of modifying the said order by invoking the provisions of Section 99-A CPC does not arise, in the given circumstances.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

20.12.2016
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No