

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

RSA No.1721 of 1991

Date of Decision:12.12.2016

The State of Punjab

... Appellant

Vs.

Krishan Kumar Sangali and another

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. T.N. Sarup, Addl. A.G. Punjab.

Mr. Samarth Sagar, Advocate for the respondents.

P.B. BAJANTHRI J.

In the present regular second appeal, the State of Punjab has questioned the validity of appellate court order dated 20.3.1991.

The respondent was promoted to the post of Superintendent Grade-IV on 21.9.1970. The said promotion was regularized on 10.06.1977. While he was working in the cadre of Superintendent Grade-IV in the department of Technical Education and Industrial Training Punjab, he was sent on deputation to U.T. Chandigarh in the month of February 1980. When he was on deputation, on 22.12.1980, the respondent has been reverted from the post of Superintendent Grade-IV to Accountant for the reasons that one Madan Mohan Singh who was in the cadre of Superintendent Grade IV whose services have been terminated. Later on by virtue of orders, he was reinstated and for want of Superintendent Grade-IV, Madan Mohan Singh being senior, the respondent has been reverted in order to accommodate Madan Mohan Singh. However order of reversion dated

22.12.1980 was not given effect apparently for the reasons that the

respondent was on deputation to U.T. Chandigarh and it was given effect only on 9.4.1985. Thus, the respondent filed a suit for declaration insofar as reversion order dated 22.12.1980. Suit was decreed on 29.11.1988 in favour of the respondent. Feeling aggrieved by the order of the trial court dated 29.11.1988, the State of Punjab preferred an appeal before the appellate court. On 20.3.1991, the appellate court rejected the appeal filed by the State of Punjab. Thus, the present regular second appeal has been presented.

Learned counsel for the appellant submitted that order of reversion is dated 22.12.1980 and it has been challenged belatedly on 13.6.1986. On this count itself, the trial and appellate court have committed error in extending the relief in favour of the respondent. It was further submitted that order of reversion is in order to accommodate Madan Mohan Singh who was admittedly senior to the respondent herein. Since Madan Mohan Singh's services were terminated and later on by virtue of orders, he was to be accommodated in the post of Superintendent Grade-IV. Thus, for want of vacancy, the respondent was required to be reverted to the post of Accountant from the post of Superintendent Grade-IV. Therefore, there is no infirmity in the order of reversion. Thus, the trial court as well as the appellate court have erred in interfering with the order of reversion.

On the other hand, learned counsel for the respondent submitted that when order dated 22.12.1980 has been passed as on the date of reversion, the respondent was on deputation to U.T. Chandigarh. The same has not been given effect and it has been given effect only on 9.4.1985. Therefore, the suit filed by the respondent is within the time limit and the question of delay may not arise as contended by the learned counsel for the appellant. It is further contended that in the promotion order of the

respondent dated 21.9.1970 or order regularizing the promotion on 10.6.1977, the appellants have not incorporated any condition that his promotion or regularization of the promotion is subject to accommodating Madan Mohan Singh, if necessary. In the absence of condition, order of reversion dated 22.12.1980 is bad, illegal and arbitrary. Therefore, rightly trial court as well as appellate court have interfered with the order of reversion dated 22.12.1980. The appellants have not made out a case so as to interfere with the orders passed by the both the courts below.

Heard learned counsel for the parties.

Short question for consideration in the present petition is whether before order of reversion dated 22.12.1980, the appellants have examined the promotion as well as regularization of promotion orders dated 21.9.1970 and 10.6.1977 so as to revert the respondent.

In the absence of condition imposed in the order of promotion or regularization of promotion that the respondent would be reverted as and when Madan Mohan Singh's services likely to be taken back, ordering reversion vide order dated 22.12.1980 is highly arbitrary and illegal. Moreover no notice of reversion was given. Reversion amounts to reduction in rank. Hence, it is mandatory to issue notice. Thus, the appellants have not made out a case so as to interfere with the orders passed by the courts below.

Accordingly, the appeal stands dismissed.

12.12.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No