IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.825 of 1991
Date of Decision:29.09.2016

Punjab Agricultural University Ludhiana ... Appellant

Vs.

Ram Lal Khanna and others ... Respondents

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

Present : Mr. H.N.S. Gill, Advocate for the appellant.

Mr. M.S. Dhami, Advocate for respondents No.3 to 6.

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P.B. BAJANTHRI J.

The appellant has questioned the validity of appellate court order dated 8.10.1990. The respondent-plaintiff was appointed as a Accountant on 15.3.1977 whereas defendants No.4 to 33 were promoted to the post of Accountant on 29.4.1977.

Learned counsel for the appellants submitted that method of recruitment to the post of Accountant is by way of promotion and direct recruitment and in the ratio of 3 : 1 (three by way of promotion and one by way of direct recruitment). Defendants No.4 to 33 who are within the promotional quota, they have been assigned the seniority over and above the plaintiffs-respondents (direct recruitment). Accordingly, ranking in the seniority list of Accountant assigned to the plaintiff-respondent was below defendants No.4 to 33.

Feeling aggrieved by the seniority assigned to the plaintiff-respondent, he preferred suit before the trial Court. The trial Court rejected the suit. Consequently, the plaintiff-respondent preferred an appeal before the Appellate Court. The Appellate Court while setting aside the ranking assigned to the plaintiff-respondent directed to re-assign ranking to the plaintiff-respondent over and above defendants No.4 to 33 with reference to date of entry into the cadre of Accountant.

Thus, the appellants-University preferred this appeal questioning the validity of appellate court order.

Learned counsel for the appellants vehemently contended that there is no error in preparing seniority list dated 29.1.1983 while placing defendants No.4 to 33 over and above the plaintiff-respondent in the seniority list of Accountant. In the rules of recruitment, the post of Accountant is required to be filled up in the ratio of 3 : 1 (three by way of promotion and one by way of direct recruitment), the appellate court failed to appreciate rules of recruitment, therefore, order of the appellate court is liable to be set aside.

Per contra, learned counsel for the respondent-plaintiff submitted that having regard to the date of entry into the services for the post of Accountant, the plaintiff-respondent was selected and appointed on 15.3.1977 whereas defendants No.4 to 33 were promoted on 29.4.1977 much later than the plaintiff-respondent. Therefore, seniority is required to be fixed with reference to the date of entry into service in the cadre of accountant. Thus, there is no error in assigning seniority in the cadre of accountant to the plaintiffs-respondents over and above defendants No.4 to 33 on account of the fact that plaintiffs-respondents were appointed earlier to defendants No.4 to 33. It was further submitted that without altering the date of promotion of the promotees, they cannot have early date of seniority.

Heard learned counsel for the parties.

Short question for consideration in the present case after analyzing the facts of the matter is whether defendants No.4 to 33 who are in the promotional cadre and who have been promoted to the post of Accountant on 29.4.1977 and claim seniority over and above the direct recruitment who were selected and appointed on 15.3.1977, are entitled for seniority over and above the plaintiffs-respondents or not?

It is true that rules of recruitment governing the post of Accountant prescribed post are required to be filled in the ratio of 3 : 1 (three by way of promotion and one by way of direct recruitment). The appellants should have verified the vacancy position instead of promotion and direct recruitment and so also while giving promotion. Even if promotional quota is available to defendants No.4 to 33 prior to 15.3.1977, in the absence of modification of promotion order dated 29.4.1977 of defendants No.4 to 33, right to seek seniority over and above plaintiffs-respondents is impermissible. In the absence of modification of date of entry into service by the defendants No.4 to 33 to the cadre of Accountant placing defendants No.4 to 33 over and above plaintiff-respondent is not in accordance with law. Therefore, there is no error in the appellate court order.

The appeal stands dismissed.

If the plaintiff-respondent submitted representation for consequential benefits, the appellant-University is directed to consider the same within a period of three months from the date of receipt of representation.

29.09.2016 **(P.B. Bajanthri)**
rajeev **Judge**

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**