

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 2313 of 2001

Date of decision: 28.11.2016

Mam Chand

...Appellant

Vs.

State of Haryana

...Respondent

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

Present: Mr. V.K. Aggarwal, Advocate for the appellant.

Mr. Anil Mehta, DAG, Haryana.

P.B. BAJANTHRI, J.(ORAL)

The appellant in the present appeal has questioned the validity of the appellate Court order dated 22.03.2001.

The appellatant was stated to have been appointed as Store Boy and he was promoted to the post of Store-Keeper on 16.07.1980. Thereafter his name was considered for promotion for Store purchase Assistant. However, Sh. Kuldeep Singh who is stated to be junior was promoted to the post of Store Purchase Assistant w.e.f. 16.07.1980. Subsequently, the appellant was promoted in the year 1991 on notional basis. In the other words, he is not entitled for monetary benefits during the period of 16.07.1980 to 21.03.1991.

Feeling aggrieved by the decision of the respondents, appellant filed a suit before the trial Court contending that he is entitled for monetary benefits during the period 16.07.1980 to 21.03.1991. The trial Court decreed the suit. The respondents feeling aggrieved of the trial Court order filed an appeal before the appellate Court. The appellate Court on 22.03.2001 reversing the order of the trial

Court the appeal has been accepted.

Learned counsel for the appellant submitted that the respondents have rightly granted promotion to the post of Store Purchase Assistant w.e.f. 16.07.1980 the date on which the appellant's junior, one Sh. Kuldeep Singh was promoted. His name was not considered. Ultimately the same was rectified by the respondents by promoting the appellant from 16.07.1980 the date on which Sh. Kuldeep Singh was promoted. However, he has been denied monetary benefits during the intervening period for no fault of the appellant. Therefore, order of the appellate Court in reversing the Trial Court order is highly arbitrary and illegal. It is further contended by learned counsel for the appellant that whenever an employee's promotion i.e., immediate junior's name is considered for promotion while ignoring name of the senior for no reasons in such circumstances if senior is promoted all consequential monetary benefits are to be extended.

Per contra learned counsel for the respondent submitted that the respondents have rectified the mistake committed by them while promoting the appellant from 16.07.1980 from the date one Sh. Kuldeep Singh who was the junior to the appellant. Since the appellant has not discharged the duties of post of Store Purchase Assistant between 16.07.1980 to 21.03.1991, therefore, he is not entitled to the pay in other words adopting the principle of no work no pay would be applicable and the same has been applied.

Heard, learned counsel for the parties.

Admittedly the petitioner's name was not considered for the promotion to the post of the Store Purchase Assistant on 16.07.1980, the date on which Sh. Kuldeep Singh, who is immediate Junior to the appellant, was promoted. The same was rectified by the respondent on 21.03.1991, while

granting promotion w.e.f. 16.07.1980 he has been denied monetary benefits and notional pay fixation has been made. For no reasons the petitioner's name was, over-looked and appellant was promoted from the date of junior's promotion while over looking the principle of no work no pay. Appellant is entitled to monetary benefits. Denial of monetary benefit during the period of 16.07.1980 till 21.03.1991 is highly arbitrary and illegal. Thus, the appellate Court has erred in reversing the order of trial Court.

In view of the facts and circumstances, appellate Court order dated 22.03.01 is set aside. The order of the trial Court dated 22.03.01 is upheld. The respondents is directed to calculate arrears of pay and other consequential benefits if any and grant within a period of 4 months from today.

Appeal stands allowed.

November 28, 2016

Poonam (II)

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasoned:

Ye

Whether reportable:

No