

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RSA No. 2844 of 2001 (O&M)
Date of decision: 28.11.2016**

State of Punjab

...Appellant

Vs.

Kulbir Singh

...Respondent

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

Present: Mr. Rahul Verma, AAG, Punjab.

Mr. G.S. Nagra, Advocate for the respondent.

P.B. BAJANTHRI, J.(ORAL)

The appellant has questioned the validity of the trial Court order dated 06.04.1999 passed in Civil Suit No. 409 of 1993 and order of the Appellate Court dated 13.09.2000 passed in Civil Appeal No. 490 of 1999 on 04.07.1988.

Amongst others, the respondent was promoted to the post of Kanungo from the post of Patwari on 04.07.1988. He was on deputation to the Rehabilitation Department. His services have been repatriated to the parent department in the year 1993. The Collector, Amritsar posted the appellant to the post of Patwari instead of Kanungo on 01.10.1993. The respondent feeling aggrieved by the order of posting him to the post of Patwari instead of Kanungo, filed a suit for declaration before the trial Court. Trial Court on 06.04.1999 has held that posting the respondent as a Patwari amounts to demotion and the decision is illegal, ultra vires null and void. The appellants aggrieved by the order of the trial court preferred an appeal before Appellate Court. On 13.09.2000 the appellate Court affirmed the order of the trial Court. Thus, the present appeal has

been filed questioning orders of both the trial and appellate Court.

Learned counsel for the appellant submitted that in the order of promotion dated 04.07.1988 conditions were imposed. Para 2 of the promotion order reads as under:-

“The abovesaid officials will maintain their seniority as Patwari (M) in their respective district establishment. They have no right or claim to be retained in this department. Their services would be placed at the disposal of their parent office at any time without assigning any reason”.

Therefore, on the repatriation of the respondent for the Rehabilitation Department Collector, Amritsar has posted the respondent to the post of Patwari and it does not amounts to reversion. Further it was argued that certain departmental enquiry was against the respondent in the year 2002 were pending consideration. Therefore, respondent is not entitled to hold the post of Kanungo.

Learned counsel for the respondent submitted that no reversion order has been passed and so also no reason assigned while posting him as a Patwari vide (Annexure P-1) 10.09.2003. In the absence of the reversion order the respondents have arbitrarily posted him as Patwari instead of Kanungo. Therefore, there is no infirmity in the orders of the trial Court as well as appellate Court.

Heard, learned counsel for the parties.

Admittedly, the respondent was promoted to the post of Kanungo from the post of Patwari on 04.07.1988. He was on deputation to Rehabilitation Department. After his repatriation to the parent department, the appellants have posted respondent as Patwari instead of Kanungo in the absence of reversion order. No reversion order has been passed from the post of Kanungo to Patwari. In the absence of reversion order posting the respondent as Patwari is highly

arbitrary. Therefore, the appellant's reliance on para 2 of the promotion order is incorrect. Further contending that the respondent was facing the inquiry in the year 2002, the said contention is subsequent to the order of promotion as well as repatriation from the Rehabilitation Department. As on the date of promotion i.e., 04.07.1988 the respondent was not facing departmental enquiry so as to revert him to the post of Patwari. Thus, there is no ground to interfere with the trial Court as well as Appellate Court order.

Dismissed.

November 28, 2016

Poonam (II)

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasoned:

Ye

Whether reportable:

No