

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

1528

**RSA No. 4431 of 2004 (O&M)
Date of decision: 17.12.2016**

Gian Chand

....Appellant

Versus

State of Punjab

.... Respondent

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Harnek Singh, Advocate for the appellant.

Mr. M.S.Naryal, AAG, Punjab.

P.B. Bajanthri, J. (Oral)

In the instant appeal, the appellant has questioned the validity of the appellate court order dated 30.07.2004. The appellant was appointed as a JBT Teacher on 15.05.1956 and he had earned promotion to the cadre of Head Teacher, Centre Head Teacher and Block Primary Education Officer on 16.04.1982, 14.09.1992 and 03.05.1995 respectively. His grievance before the trial court is that he should have been promoted to the post of Centre Head Teacher as and when one Shri Hari Kishan was promoted to the post of Centre Head Teacher on 19.08.1988 for the reasons that Shri Hari Kishan was initially appointed to the post of JBT Teacher on 07.06.1956 and he was promoted to the post of Head Teacher on 17.04.1982. It is evident that Hari Kishan is junior to the appellant. The appellant filed a civil suit before the trial court on 19.07.1995. The same

was decided in favour of the appellant while decreeing the suit on 04.05.2002. The respondent filed appeal before the appellate court against the order of trial court dated 04.05.2002. On 30.07.2004 appellate court allowed the appeal filed by the department on the sole ground that claim of the appellant was belated. Thus, appellant aggrieved by the order of the appellate court dated 30.07.2004 presented this appeal.

2. Question for consideration in the present appeal is whether the suit was within the time limit or not. Admittedly, Shri Hari Kishan was junior to the appellant as is evident from the date of entry into service as well as date of promotion to the post of Head Teacher. When Hari Kishan was promoted to the post of Centre Head Teacher on 19.08.1988 the appellant's name was overlooked for promotion even though he was senior. The appellant failed to agitate his grievance within the time limit and he has filed suit only in the year 1995. The appellant submitted that it is a recurring cause of action. Therefore, he is entitled for whatever benefit extended to Shri Hari Kishan who is junior to the appellant.

3. In view of the above dates and events in respect of service particulars of the appellant read with Hari Kishan no doubt, appellant is senior to Hari Kishan. However, appellant has not agitated his grievance timely. Moreover, the appellant has not questioned the validity of the Hari Kishan's promotion to the post of Centre Head Teacher on 19.08.1988 and it had attained finality. Therefore, appellant has not made out a case so as to interfere with the appellate court order dated 30.07.2004. It is to be noted that for the purpose of claiming promotion and seniority an employee must

agitate his grievance within a reasonable period as held by the Apex Court in the case tiled as *P.S. Sadasivaswamy versus The State of Tamilnadu* reported in 1975 SCR (2) 356.

4. In the above circumstances, the appellant has not made out a case so as to interfere with the order of the appellate court dated 30.07.2004.

5. Appeal stands dismissed.

17.12.2016

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No