

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

SAO No.20 of 2007(O&M)

Date of decision:20.10.2016

Jarnail Singh

....Appellant

VERSUS

PSEB and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. G.S. Bajwa, Advocate for the appellant.

Mr. Parminder Singh, Advocate for the respondents.

REKHA MITTAL, J.

The present appeal has been directed against the judgment dated 06.12.2006 passed by the District Judge, Faridkot whereby the appeal against the judgment and decree dated 10.05.2006 passed by the Additional Civil Judge (Senior Division), Faridkot by the respondents/defendants was allowed, the judgment and decree passed by the trial Court was set aside and the matter has been remitted to the trial Court for impleading 380 Linemen as party in the suit, giving them opportunity of hearing and then decide the suit on merits.

Counsel for the appellant has submitted that the appellant knocked at the door of the Civil Court claiming seniority at Sr. No.3214-A after Balwinder Singh instead of 3608-A in the seniority list of Linemen by virtue of judgment and decree dated 14.06.1994 passed by the Senior Sub-Judge, Faridkot in Civil Suit No.17 dated 08.02.1993 and judgment and decree dated 10.10.1998 passed by the Additional District Judge, Faridkot

in appeal titled PSEB vs. Jarnail Singh. After due contest of claim put-forth by the appellant, the suit was decreed by the trial Court for declaration and permanent injunction as prayed for in the head-note and prayer clause of the plaint. It is further argued that neither in the written statement filed by the respondents/defendants nor otherwise any such plea was raised that suit filed by the plaintiff/appellant is bad for non-joinder of necessary parties. According to counsel, the appellant and all the 380 Linemen who were directed to be impleaded as party by the Court of appeal are not in service as all of them have already retired, therefore, the question of seniority of the appellant would not affect service/promotional avenues of those 380 persons who were ordered to be impleaded as a party by the Court of appeal. It is further submitted that in view of the subsequent events that the appellant and all those 380 Linemen have already retired from service, the present *lis* would be relevant in the context of additional financial benefits to the appellant, therefore, the judgment passed by the Court of appeal requires to be set aside with a direction to decide the appeal on merits, in accordance with law.

Counsel for the respondents, on the contrary, has not disputed that the appellant as well as 380 persons ordered to be impleaded as a party in the suit have already retired from service, therefore, any decision in the appeal would not affect the official position, nature of assignment etc. of the appellant as well as those 380 persons. However, it has been argued that in case the appellant's claim qua seniority is allowed and as a consequence he becomes eligible to financial benefits, the others (380 persons) may also come forward to claim a similar benefit or may be more than what would be the entitlement of the appellant.

I have heard counsel for the parties, perused the paper-book and the records.

It is an undisputed position of the case that the appellant claimed seniority at a particular point on the basis of earlier litigation that was decided by the trial Court on 14.06.1994 and by the Court of appeal on the basis of compromise vide judgment and decree dated 10.10.1998. There is no denial that the appellant as well as all those 380 Linemen ordered to be impleaded as a party by the Court of appeal have already been retired from service. The mere fact that in case claim of the appellant is allowed with regard to seniority or he is held entitled to consequential benefit of arrears of service or retirement benefits, others would also put forth their claim for a similar benefit, in the given circumstances would not suffice to implead others as a party at the cost of delaying decision in the present litigation pending since 2002 and causing inconvenience and unnecessary expense to a large number of retirees. On the contrary, if claim of the appellant is accepted and as a consequence, some benefit also flows to others, they would be at liberty to take recourse to appropriate proceedings in accordance with law. Therefore, non-impleadment of those 380 Linemen or decision of the *lis* in their absence would not cause any prejudice to their rights. In this view of the matter, in my considered opinion, impleadment of 380 Linemen is neither proper nor necessary for complete and effective adjudication of the matter in controversy. In view of the above, the order of the Court of appeal cannot be allowed to sustain and accordingly set aside.

In view of what has been discussed hereinabove, the appeal is allowed. The judgment passed by the Court of appeal is set aside and the matter is remitted to the Court of appeal for decision of the appeal afresh in

accordance with law. The parties through their counsel are directed to appear before the Appellate Court on 29.11.2016. The Court is directed to dispose of the appeal expeditiously preferably within a period of 3 months from the parties putting in appearance.

OCTOBER 20, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no