

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

RSA No.3928 of 2016 (O&M)

Date of Decision:10.11.2016

The Chief Administrator and another ... Appellants

Vs.

Rajender Kumar ... Respondent

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

Present : Mr. Padamkant Dwivedi, Advocate for the appellants.

P.B. BAJANTHRI J.

C.M. No.10147-C of 2016

For the reasons stated in the application as well as in the affidavit, delay of 2 days in re-filing the appeal stands condoned.

Application is allowed accordingly.

C.M. No.10148-C of 2016

For the reasons stated in the application as well as in the affidavit, delay of 212 days in filing the present appeal stands condoned.

Application is allowed accordingly.

Main case

The appellants have questioned the validity of trial Court order dated 19.5.2012 and the appellate Court order dated 30.5.2015. The respondent's name was over looked for promotion as Auction Recorder on 2.9.1986 the date on which juniors to the respondent were promoted to the post of Auction Recorder. Thereafter, respondent was promoted to the post of Auction Recorder on 24.12.1999 with notional benefits. Therefore, the appellants suo moto extended the monetary benefits during the intervening period from 2.9.1986 to 24.12.1999. Subsequently, the appellants

proceeded to recover the arrears of salary paid to the respondent for the period from 2.9.1986 to 24.12.1999. Recovery action was subject matter before the Civil Court. The trial Court set aside the order of recovery. Thereafter, the appellants preferred an appeal before the Appellate Court. Appellate Court affirmed the order of the trial Court. Thus, the present appeal has been filed.

Short question for consideration in the present appeal is whether an employee, whose name has been overlooked for promotion and later on if the authority rectified the error while giving retrospective promotion from the date of junior's promotion, is entitled for service benefits including monetary benefits or not?

If overlooking promotion of an employee is arbitrary and illegal and later on such error is rectified in such circumstances employee is entitled to all service benefits including monetary benefits as held by the Supreme Court in the case of Union of India etc v. K.V. Janki Raman etc.; 1991 AIR 2010.

The trial Court rightly set aside the order of recovery and there is no infirmity in the order passed by the trial court so also in the order passed by the appellate court. Thus, the appellants have not made out a case so as to interfere with the finding recorded by the both the courts below.

Accordingly the appeal is bereft of merit stands dismissed.

10.11.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No