

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

RSA-2787 of 1994

DATE OF DECISION: 31.01.2017

Haryana State Electricity Board

....Appellant.

VERSUS

Ram Ditta Mal

....Respondent.

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Malkiat S. Hundal, Advocate for
Mr. R.S. Bains, Advocate for the appellant.

None for the respondent.

RAJIV NARAIN RAINA, J. (Oral)

The appellant Board admitted that the seniority position of the respondent- plaintiff had been wrongly fixed in the gradation list and the respondent should have been promoted from the date the junior was promoted but yet denied the consequential benefits arising out of retrospective promotion on the ground that he had not worked on the post. They applied the principle of 'no work-no pay'.

The findings of both the Courts are against the appellant-Board decreeing the consequential benefits retrospectively as a matter of right. Those findings are not open to be disturbed when the settled legal proposition is that when a senior is ignored and junior promoted to higher rank, the senior has a vested right to be promoted from the due date when the principle of promotion is seniority-cum-merit. None of those debilitating reasons are present in this appeal which may occasion loss of right to promotion when the service record justifies promotion from the retrospective date. Denial of arrears of salary etc. was the issue in the civil suit. The suit has been decreed.

When the seniority position of the plaintiff in the feeder cadre,

as against his junior, was indisputably higher, then interference in the

judgment and decree of the lower appellate court upholding the judgment of the trial court is not warranted at all. The appellant-Board cannot be seen as an aggrieved person of the just decree of the Courts below calling upon the defendant Board to pay the difference of arrears of salary to the plaintiff. The suit was confined only to payment of arrears of money due, which right, in any case, would follow retrospective promotion as a natural consequence. The plaintiff employee had a right to be restored his past monetary deprivations as though he was actually promoted when the junior superseded him by wrongful actions of the Board. The Board committed a grievous error in passing the order impugned in the suit which has been rightly cured by the decree appealed against.

In view of the above, there is no absolutely no merit in this frivolous appeal which is hereby dismissed with costs of ₹ 1,00,000/- for keeping the plaintiff deprived of his rights for more than two decades. Mere pendency of the appeal does not clothe the Board with armour to perpetuate an overt injustice done which grievance was genuine and should have been cured by the appellant itself without inviting directions from the courts by filing this reckless appeal. Costs be paid to the respondent within two months from the date of receipt of the certified copy of this order.

Since, no one appears for the respondent, a copy of this order be sent to the respondent at the address mentioned in the memo of parties.

(RAJIV NARAIN RAINA)
JUDGE

31.01.2017.

komal

Whether speaking/reasoned: Yes
Whether reportable: No