

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

RSA No. 3085 of 2013 (O&M)
Date of decision : September 04, 2017

Rajinder Kaur

..... Appellant

v.

Punjabi University and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Puneet Gupta, Advocate
for the appellant.

Mr. Amit Sethi, Advocate
for respondent No.1.

Mr. HS Ghuman, Advocate
for respondent No.2.

Ajay Tewari, J (Oral)

This appeal has been filed against the judgment of the lower appellate Court reversing that of the trial Court and thereby dismissing the suit of the appellant.

The appellant was appointed as a Library Restorer (later on termed as Library Assistant) on 10.10.1983 and had challenged the decision of respondent No.1 in not considering her for promotion to the post of Professional Assistant.

The main grievance raised by the appellant is that the fact of her having not cleared the type test could not exclude her from promotion.

The trial Court held that at the time when the appellant was appointed as a

Library Restorer (Assistant), there was no requirement of passing type test and also noticed that respondent No.1 had granted exemption to certain Clerks from having cleared type test for promotion to the post of Assistant and on that basis decreed the suit. In appeal, the lower appellate Court held that on the date when the appellant was appointed as a Library Restorer (Assistant) i.e 10.10.1983, requirement of passing type test for further promotion was already in place (by resolution dated 17.7.1982 passed by the Syndicate), and as mentioned above allowed the appeal.

Counsel for the appellant has argued that no finding was given with regard to the issue of discrimination which had also been held in her favour by the trial Court.

Counsel for respondent No.1 points out that the appellant based the claim of discrimination by placing on record some documents in rebuttal. Neither were those documents certified nor did any witness appear to explain the source and authenticity of those documents and consequently no reliance could have been placed on these documents. As per him, in the plaint also the appellant had mentioned the names of some persons who had been promoted without passing the type test and in the written statement it had been specifically clarified that each one of those promotions had taken place before the decision of the syndicate in 1982.

Counsel for the appellant has further argued that once the lower appellate Court has not considered the issue of discrimination in its judgment, the matter should be remanded back.

In my opinion, this technicalistic argument will not help the appellant. Once it is not disputed that the documents were exhibited without their source having been ascertained and without any body

appearing to state that they were original documents, omission of the lower appellate Court to specifically consider the same would not palpably render the judgment so perverse so as to be liable for interference in the second appeal. Consequently, finding no merit in this appeal, the same is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

September 04, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No