

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

216

**RSA No.6215 of 2014 (O&M)
Date of Decision : 06.11.2017**

Haryana Urban Development Authority
and others

..... Appellants

Versus

Surender Kumar

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Ms. Aakanksha Sawhney, Advocate
for the appellants-HUDA.

Mr. Rajesh Arora, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the lower Appellate Court reversing that of the trial Court and decreeing the suit filed by the respondent.

The brief facts are that the respondent was appointed as Beldar on 01.08.1991. His claim was that his order of re-designation should relate back from 22.11.1999 as was done for other similarly situated employees. The trial Court held that he had not been able to prove that the person to whom benefit was given w.e.f. 22.11.1999 were junior to him and consequently dismissed the suit. The appellate Court found that all the employees were regularized on the same date by the same order dated 19.03.1997. Thereafter all of them (including the respondent) were redesignated as Mate. Subsequently the order of re-designation of all of them was kept in abeyance by a common order. However, later the order of

abeyance was withdrawn with respect to other employees except one Hakam Khan and the respondent. On the basis of these findings the appellate Court held that the onus was upon the appellants to show that the respondent was junior and not for the respondent to show that he was senior and consequently decreed the suit.

Learned counsel for the appellants has argued that the judgment of the trial Court is correct while that of the appellate Court is wrong.

Learned counsel for the respondent has however, defended the order of the appellate Court.

In my opinion, the order of the appellate Court is correct. Once the appellants had treated the respondent similar to the other employees at the time of regularization, at the time of re-designation and at the time of keeping in abeyance, the duty was cast upon them to justify his re-designation from a later date and the trial Court erred in casting the opposite onus on the respondent.

Appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

06.11.2017
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No