

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-2093-2002 (O&M)

Date of Decision:-28.02.2018.

The State of Punjab through Collector District Sangrur and another

.....Appellants

Versus

Kewal Krishan Draftsman

.....Respondent

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

Present: Mr. Rana Harjasdeep Singh, AAG, Punjab.

Mr. R.K. Arora, Advocate for the respondent.

P.B. BAJANTHRI, J. (Oral)

In the instant appeal, appellants have questioned the validity of the Appellate Authority's order dated 5.2.2002 passed in Civil Appeal No.11806/2000.

(2.) Respondent's name was overlooked for promotion to the post of Draftsman on 12.10.1983 only on the score that he did not made necessary application for promotional post. It seems that his juniors were promoted to the post of Draftsman on 12.10.1983. Therefore, he filed a civil suit before the Trial Court stating that he is entitled to be promoted to the post of Draftsman w.e.f. 12.10.1983. Suit was dismissed. Thereafter, he preferred an appeal before the Appellate Court. Respondent's appeal was allowed. Hence, the present appeal by the State of Punjab.

(3.) Learned counsel for the appellants submitted that respondent

has failed to make necessary application for the purpose of promotion to the post of Draftsman from the post of Tracer as on 12.10.1983. Thus, his name has been overlooked. Therefore, there is no infirmity in the action of the appellant in overlooking the claim of the respondent for promotion to the post of Draftsman w.e.f. 12.10.1983. It was further contended that there is an inordinate delay in filing suit, therefore, Appellate Court failed to appreciate. These issues have not been dealt appropriately. Hence, Appellate Court order is to be set aside.

(4.) *Per contra*, learned counsel for the respondent while resisting the contention of the appellant submitted that on 13.01.1998, one Malkiat Singh was promoted with retrospective effect on 12.10.1983. Thus, cause of action accrued to the respondent in the year 1998 also so as to extend benefit of promotion to the post of Draftsman on par with Malkiat Singh whose name is at Sr. No.61, whereas, respondent's name is at Sr. No.44 in the feeder cadre of Tracer. Therefore, there is no infirmity in the Appellate Court order.

(5.) Heard learned counsel for the parties.

(6.) Appellants were bound by rules of recruitment governing the post of Draftsman. One of the method of recruitment is by promotion from the cadre of Tracer. Respondent was in the cadre of Tracer whose name was reflected in the seniority list at Sr. No.44. His name has been overlooked for promotion to the post of Draftsman on 12.10.1983 only on the score that he did not make necessary application. Rules of recruitment do not prescribe that for the purpose of promotion to the post of Draftsman, Tracer is required to make necessary application. Therefore, overlooking

delay in filing the suit is concerned, it is to be noted that Malkiat Singh was promoted on 13.01.1998 w.e.f. 12.10.1983, therefore, respondent had cause of action in the year 1998 and the suit was filed in the year 1999. Therefore, contention of delay raised by the appellant is rejected. However, insofar as claim for promotion to the post of Draftsman w.e.f. 12.10.1983 is concerned, it is to be noted that there is delay and laches on the part of the respondent. Therefore, respondent is not entitled to arrears of pay in the post of Draftsman from 12.10.1983 to 17.05.1989 the date on which respondent was promoted, during pendency of this litigation. In view of these facts and circumstances, respondent is entitled to benefit of notional promotion to the post of Draftsman from 12.10.1983. Respondent is not entitled to any arrears of pay having regard to the fact that he has been promoted on 17.05.1989 and as on the date of filing suit, he was already holding the post of Draftsman.

Appeal stands disposed of in the above terms.

(P.B. BAJANTHRI)
JUDGE

February 28, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.