

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

1082

RSA-3141-2002 (O&M)

Date of decision: 12.01.2018

Pritam Singh

....Appellant

Versus

Municipal Committee, Moga through its President and others

.... Respondents

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

Present: Mr. A.K. Walia, Advocate for the petitioner.

Mr. Shashi Kumar Yadav, Advocate for the respondents.

P.B. BAJANTHRI, J. (ORAL)

In the instant appeal, appellant has questioned the validity of the appellate court order dated 12.10.2001.

Appellant has joined service as Peon on 24.05.1957. Thereafter, he was shifted to the post of Light Attendant. He was retired on 30.11.1992 with reference to age of 58 years as he had completed 58 years on the said date. Grievance of the appellant is that both the posts Peon and Light Attendant are in the Class IV service. Therefore, appellant is entitled to continue in service up to the age of 60 years in view of the Rule 12 of Punjab Municipal Employees (Class IV) Service Rules, 1986 (For short "Rules, 1986"). In other words, appellant should have been continued up to 30.11.1994. Thus he filed a suit before the court. Suit was decreed in his favour. Respondents feeling aggrieved by the decree passed in suit

preferred a civil appeal before the appellate court and appellate court passed reversed decree in the suit in favour of the respondent. Hence the present appeal.

Substantial question of law in the present appeal is whether appellant is entitled to continue in service up to the age of 60 years in view of Rule 12 of Rules, 1986 or not? Further if the appellant is entitled to continue in service up to the age of 60 years in that event service benefits are required to be extended for the intervening period from 01.12.1992 to 30.11.1994 or not? Undisputed facts are that appellant services were engaged as Peon. While working as such w.e.f. 13.05.1978 he has been shifted from the post of Peon to that of Light Attendant. Both the posts of Peon and Light Attendant are (Class IV) service. Appellate Court while appreciating the contention of the respondent that appellant has been extended selection grade scale in the post of Light Attendant thus drawing pay of Class III service therefore, appellant is not entitled to continue in service up to the age of 60 years. In other words, selection grade scale has been treated or equated to that of Class III service by the appellate court. Having regard to the fact that appellant's status has not been removed from Class IV or he has been promoted to the Class III from the Class IV. Therefore, status of the appellant is not changed from Class IV. Consequently, appellate court has erred in not noticing that appellant was not promoted to the Class III post so as to deny the benefit of Rule 12 of Rules, 1986. Merely extending certain monetary benefits in Class IV post that does not amount to entering higher cadre of Class III so also no

promotion order has been issued to the appellant. Thus, appellate court has erred in rejecting the appellant's claim. Accordingly, appellate court order is hereby set aside while affirming the decree passed in suit by the first court. The respondents are hereby directed to extend monetary benefits during the period from 01.12.1992 to 30.11.1994. The concerned respondent is hereby directed to calculate pay as well as increment if any during the period from 01.12.1992 to 30.11.1994 and re-fix the pay. Further arrears shall be calculated and disbursed within a period of 4 months from the receipt of this order. Consequently, pensionary benefits shall also be re-calculated and arrears shall be disbursed.

With the above observation, appeal stands allowed.

12.01.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No