

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1788-2018 (O&M)

Date of Decision:-03.04.2018.

The Director General, Health Services, Haryana and others

.....Appellants

Versus

CharanDass

.....Respondent

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

Present: Mr. G.S.Wasu, Additional A.G. Haryana.

P.B. BAJANTHRI, J. (Oral)

In the instant appeal, appellant has challenged the Appellate Court order dated 15.11.2017 insofar as extending the monetary benefits to the respondent in the cadre of Senior Superintendent w.e.f. 6.11.2009, the date on which respondent's juniors were stated to have been promoted. Such promotion was ordered on 23.02.2011.

2.) Undisputed facts are that respondent was facing disciplinary proceedings and he had been charge-sheeted on 20.08.2009. It was concluded in warning on 30.06.2010.

3.) Learned counsel for the appellant vehemently contended that respondent was punished on 30.06.2010 by warning. Consequently, he was promoted on 23.02.2011 on notional basis w.e.f. 06.11.2009. When the respondent was facing disciplinary proceedings and he has been punished, consequently, he is not entitled to monetary benefits on the principle of no

work no pay. He has cited Supreme Court decision passed in **Paluru Ramkrishnaniah Vs. Union of India** reported in **1989 (2) SCC 541** while quoting para 19.

4.) Heard learned counsel for the appellant.

5.) Crux of the matter in the present appeal is whether the respondent is entitled to monetary benefits from the date of retrospective promotion, namely, 6.11.2009 or not? Undisputed facts are that respondent was charge-sheeted on 20.08.2009 and it was concluded in warning on 30.06.2010. Thereafter, appellants have promoted the respondent to the post of Superintendent on 23.02.2011 w.e.f. 06.11.2009. Question for consideration is whether respondent is entitled to monetary benefits from what date in the cadre of Superintendent. Even though appellants have extended the benefit of retrospective promotion to the respondent w.e.f. 06.11.2009 and warning in a disciplinary proceedings would not be a hurdle for the purpose of promotion. Since warning is not a hurdle, in that event, appellants have deprived to discharge the duties of the post of Superintendent by the respondent as and when disciplinary proceedings were completed on 30.06.2010. In other words, appellants should have taken necessary action to promote the respondent to the post of Superintendent at the earliest. Appellants have not disputed that warning would not be a hurdle for promotion and it is not one of the penalty. The cited Supreme Court decision may not be helpful to the appellant for the reasons that in the latter decision, namely **Union of India Vs. K.V. Jankiraman** reported in **1991 (4) SCC 109** wherein issue is relating to application of sealed cover for the purpose of promotion. If an employee is

the principle laid down in the aforesaid decision. In the present case, warning in a disciplinary proceedings is not a hurdle for promotion and it is not one of the penalty to be imposed in a disciplinary proceedings. Therefore, denial of monetary benefits to the respondent may not be correct. Thus, no interference is called for in respect of the impugned orders of the Courts below.

6.) Accordingly, appeal stands dismissed.

(P.B. BAJANTHRI)
JUDGE

April 03, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.