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

RSA No.2834 of 2018 (O&M)
Date of Decision: 07.05.2018

State of Haryana and others

....Appellants

Vs

Shalig Ram

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. D.R. Singla, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

1. The State has preferred this Regular Second Appeal against the judgments and decrees passed by both the Courts below.

2. Plaintiff-respondent was appointed as T-mate w.e.f. 06.07.1981 by the defendants-appellants. After three months, he was promoted as Chowkidar and his services were regularized on the post of Chowkidar. In the year 1996, plaintiff was made to work as Pump Operator and he had worked at different places on the post of Pump Operator. The formal order of promotion to the post of Pump Operator was passed on 14.08.2012. The said order was passed after due certification dated 16.07.2012 which was issued by Sub Divisional Officer of the Department, certifying that the plaintiff had worked on the

post of Pump Operator from the last 16 years, therefore, due recommendation was made in promotion to the plaintiff. His case was referred for promotion vide letter dated 13.07.2012, showing that the plaintiff had an excellent service record. His case was further recommended vide letter dated 30.07.2012 for promotion by defendant No.3. On 02.12.2013, the plaintiff was reverted to the post of Chowkidar with retrospective effect without issuing any show cause notice or giving any reason. The aforesaid reversion was ordered on the ground that the post of Pump Operator was a technical post. Plaintiff being a Chowkidar was non-technical person and therefore, could not have been promoted to the post of Pump Operator as per government notification which was obtained by some person under Right to Information Act.

3. Both the Courts have considered the factum of non-issuance of show cause notice and non-grant of opportunity before passing the order of reversion to be a ground for decreeing the suit.

4. Mr. N.K. Singla, SDO while appearing as DW1 has admitted that the order of reversion was passed without issuing any show cause notice to the plaintiff nor any opportunity of hearing was afforded to the plaintiff. The witness has also admitted that cases of Balak Ram and Raghuvir Singh were

different from the plaintiff as the plaintiff had already worked for 16 years as Pump Operator before his promotion to the said post. Plaintiff has been denied right of *audi alteram partem* which is a basic rule of natural justice.

5. Having considered the controversy, I am of the considered view that the judgments and decrees passed by both the Courts below are neither illegal nor are result of mis-reading of any evidence or on account of any perversity.

6. No question of law worth consideration is involved in the present appeal.

7. This Regular Second Appeal is accordingly, dismissed.

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Since the main appeal is decided on merits, therefore, there is no necessity of passing any order in the application for condonation of delay.

This application is accordingly, disposed of.

07.05.2018

Jyoti

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No