

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.3663 of 2017 (O&M)

Date of decision: 18.09.2018

Ch. Devi Lal University, Sirsa and others

..... Appellants

Versus

Dr. Rajbir Singh Dalal and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Arvind Seth, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Despite of service of notice, respondents have not chosen to appear.

Plaintiffs filed a suit for declaration that they are entitled to be considered for promotion to the post of Professor and they also challenged the action of the defendants in issuing the schedule for conducting interview for promotion in the department in which the plaintiffs are posted. The plaintiffs also prayed a decree for mandatory injunction be passed directing the defendants to issue fresh schedule of interviews.

It is positive case of the plaintiffs that they fulfill the criteria and schedule for conducting interview for consideration for promotion to the post of Professor with regard to other departments have been issued but not with respect to the departments of Public Administration and Commerce. The defendants contested the suit and pleaded that the promotion is to be made under carrier advancement scheme and it does not effect seniority

whether the interview is conducted prior or later. Learned trial Court dismissed the suit, however, learned First Appellate Court has reversed the judgment passed by the learned trial Court. The limited grievance of the appellants is to the effect that the learned First Appellate Court has erred in directing the appellant-University to promote the plaintiffs whereas they only have a right of consideration.

Learned counsel for the appellants has pointed out that respondent No.1-Dr. Rajbir Singh Dalal has already been promoted after his case was considered during the pendency of the suit itself. He further pointed out that the appellant-University does not have any objection if direction is issued for considering the case of respondent No.2-Dr. D.P. Warne by the Committee. It will be noted that prayer of the plaintiffs was also to the effect that direction be issued to the University for considering the name of the plaintiffs-respondents for promotion to the post of Professor. In the suit, the plaintiffs had not prayed that a direction be issued to the University to promote the plaintiffs. The prayer made in the suit is extracted as under:-

“Suit for declaration to the effect that the plaintiffs No.1 and 2 are entitled to be considered for promotion to the post of professor in the departments of Public Administration and Commerce of Ch. Devi Lal University, Sisra under the Career Advancement Scheme and being fully eligible, and the action of the defendants in issuing schedule for interview for promotion to the post of professors in departments of Bio-Technology, Computer Science and Application, Physics, Law, Physical Education and English only in a clandestine manner, is illegal, null and void, arbitrary, against the principles of natural justice. Career Advancement Scheme and is not sustainable as a consequential relief of mandatory injunction the defendants are required to be directed to issue schedule for interview for the

departments of Public Administration and Commerce and to consider the claim of the plaintiff for promotion as professors from due date with all consequential services benefits and the defendants are also liable to be restrained from conducting interviews for the said post by adopting pick and choose policy only for some of the defendants, on the basis of evidence.”

Keeping in view the aforesaid undisputed facts, learned First Appellate Court has clearly erred in issuing direction to the University to promote plaintiff No.2 as Professor. The directions issued by the learned First Appellate Court are modified and there shall be a direction to the University to consider the case of plaintiff No.2 (respondent No.2 herein), within a period of three months as per regulation. If the respondent No.2 is found fit to be considered, his promotion shall be granted to him from the due date.

With these observations, the appeal is disposed of.

18.09.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No