

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

**RSA No.1702 of 1997 (O&M)
Date of decision: 04.09.2019**

Haryana State Minor Irrigation Tubewell Corporation

.....Appellant

Versus

Shyam Sunder and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anil Rathee, Advocate,
for the appellant.

Mr. Atul Lakhanpal, Senior Advocate,
with Mr. Arjun Lakhanpal, Advocate,
for respondent No.1.

Ritu Bahri, J.

This appeal has been filed against the judgment dated 13.02.1996 passed by the District Judge, Sonapat, dismissing an appeal filed by defendant No.1-appellant (hereinafter referred to as 'the defendant') against the judgment and decree dated 30.09.1993 passed by the Additional Senior Sub Judge, Sonapat, whereby suit filed by plaintiff-respondent No.1 (hereinafter referred to as 'the plaintiff') for declaration, has been decreed.

Shyam Sunder-plaintiff (respondent No.1 herein) filed the above said suit with the averments that initially, he was appointed as Clerk in the Irrigation Department and was absorbed in the Haryana State Minor Irrigation Tubewell Corporation on 31.12.1971 on transfer basis. Therefore, he was entitled for all the benefits of his previous services before joining the said Corporation i.e. w.e.f. 29.06.1967 to 30.12.1971. In this regard, he made several requests to the department, but to no avail. It was further

stated that though, Haryana State Minor Irrigation Tubewell Corporation itself desired that cases of the persons/employees, who were absorbed in the H.S.M.I.T.C. after coming from other departments, would be considered, but no benefit of previous service was given to the plaintiff. It was further stated that some other persons/employees have been granted this benefit, but plaintiff was not given the same for the reasons best known to the defendants. Hence, the suit.

Upon notice, defendants filed joint written statement, wherein allegations made in the plaint were denied and prayer for dismissal of the suit was made.

From the pleadings of the parties, following preliminary issues were framed by the trial Court:-

1. Whether the plaintiff is entitled for all the benefits of his previous service for the period from 29.06.1969 to 30.02.1971; if so, its effect? OPP
2. Whether this Court has no jurisdiction to try the suit? OPD
3. Whether the plaintiff is estopped to file the suit by his own act and conduct? OPD
4. Whether the suit is time barred? OPD
5. Whether the suit is bad for non-joinder of necessary parties? OPD
6. Relief.

Trial Court, after hearing learned counsel for the parties, decreed the suit. Appeal against the said judgment also met the same fate.

Heard, learned counsel for the parties.

In this case, the plaintiff was appointed as Clerk in the Irrigation Department on 30.06.1967 and was transferred to the H.S.M.I.T.C. on 31.12.1971. As per evidence on record, it was clear that the surplus

H.S.M.I.T.C. and the employees absorbed from one Department to another, did not lose their seniority as per the Full Bench judgment of this Court in **Kartar Singh and others vs. State of Punjab and others**, AIR 1990 Punjab & Haryana 1 and the letter Ex.PK, in which it was stated that the Irrigation Booking Clerk, spared by the Irrigation Branch, Haryana, would be treated to have been taken by the Haryana State Minor Irrigation Tubewell Corporation on transfer basis.

Keeping in view that the plaintiff was transferred to the defendant-Corporation, benefit of past service has been rightly granted to him for protection of pay and other consequential benefits. Moreover, he was a regular employee of the Irrigation Department and had joined as Booking Clerk on 30.06.1967. Consequent upon his transfer, benefit of past service has been rightly granted to the plaintiff by the trial Court as well as the lower appellate Court.

In view of the above discussion, this Court is of the view that suit filed by the plaintiff (respondent No.1) has been rightly decreed by both the Courts below. No illegality, much less perversity, has been found in the impugned judgments warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

04.09.2019
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No