

**C.M. NOS.13802-13803 C OF 2016 &
R.S.A. NO.5315 OF 2016**

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

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**C.M. NOS.13802-13803 C OF 2016 &
R.S.A. NO.5315 OF 2016
DATE OF DECISION: SEPTEMBER 23, 2019**

Inderjit Singh

.....Appellant

VERSUS

State of Punjab and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Manu K. Bhandari, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.13802 C of 2016

Prayer in this application is for condonation of delay of 257 days in refiling the appeal.

For the reasons mentioned in the application, which is duly supported by an affidavit of the Clerk of the counsel, the present application is allowed. Delay of 257 days in refiling the appeal stands condoned.

C.M. No.13803 C of 2016

Application is allowed as prayed for subject to all just exceptions.

Exemption is granted from filing the certified copies of the grounds of appeal before the District Judge.

R.S.A. No.5315 of 2016

The instant appeal has been filed, challenging the judgment and decree passed by the Civil Judge (Senior Division), Patiala, dated 16.08.2012, whereby the suit for declaration and mandatory injunction preferred by the appellant-plaintiff for promotion to the post of Assistant Section Holder Printing from the date his juniors were promoted alongwith consequential benefits had been dismissed, appeal against which preferred by him also stands dismissed vide judgment dated 26.02.2015 passed by the learned Additional District Judge, Patiala.

It is the contention of learned counsel for the appellant-plaintiff that the appellant-plaintiff was appointed as Distributor on 13.04.1948 at Bhupindra State Press, Patiala. He further states that the appellant served the respondent-Department without any adverse report, honestly and diligently. He ultimately retired on 31.12.1988 from the Punjab Government Press, Sirhind Road, Patiala. He claimed promotion to the post of Assistant Section Holder Printing on the ground that persons junior to him have been so promoted, because of which he has been suffering monetary losses, including that of pension and other retiral benefits and, therefore, he is also entitled to the promotion and other consequential benefits. He asserts that the claim of the appellant-plaintiff has been rejected by the Courts below without any basis, especially keeping in view the fact that the suit has been dismissed on the ground of limitation and adverse record of the appellant-plaintiff. He also contends that the Courts below have not taken into consideration that the appellant-plaintiff has challenged the action of the respondents in rejecting his legal notice dated 20.02.2008, which was served upon the respondent and, thus, the cause of action accrued to him

from the date of rejection and he accordingly filed the suit. He, thus, prays that the present appeal be allowed and the judgments and decree passed by the Courts below be set-aside.

I have considered the submissions made by learned counsel for the appellant and with his assistance have gone through the records of the case.

Firstly, the claim of the appellant-plaintiff that he is having a continuous unblemished service record is not acceptable in the light of the adverse annual confidential reports given to him from the years 1974-75 to 1986-87, Ex.DC 1 to Ex.DC11. Not only that two separate penalties for recovery of amounts of ₹11,085-53P and ₹17,020-48P, Exs.D1 and D2 were imposed on 29.01.1990 and 14.11.1991 respectively.

That apart writ petition was preferred by similarly placed employees, who had joined their services before the framing of departmental rules on the ground that when they had joined the service, there was no qualification provided/prescribed for the post. On the basis of the said claim, the writ petition preferred by the similarly placed employees was allowed by this Court on 01.12.1992, appeal against which preferred by the State of Punjab was dismissed by the Division Bench on 23.04.1996. The Hon'ble Supreme Court in its judgment passed in same matter, when challenged by Rakesh Kumar and others in Civil Appeal No.4988 of 1997, reversed the judgment passed by this Court vide order dated 17.07.1997. According to the judgment, the qualification as has been prescribed in the said Rule for promotion to the post of Assistant Section Holder Printing was upheld and the same was held to be mandatory for promotion irrespective of the date of appointment. In the light of the said judgment, persons who were

alleged to be junior to the appellant-plaintiff and were promoted were also reversed by the respondents.

Keeping in view the fact that the appellant-plaintiff admittedly has a bad service record and further is not qualified for consideration for promotion to the post of Assistant Section Holder Printing, the judgments and decree as passed by the Courts below cannot be faulted with.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

September 23, 2019
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(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No