

**C.M. NOS.13775 TO 13777 C OF 2018 &
R.S.A. NO.5053 OF 2018**

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

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**C.M. NOS.13775 TO 13777 C OF 2018 &
R.S.A. NO.5053 OF 2018
DATE OF DECISION: DECEMBER 04, 2019**

Ram Kumar

.....Petitioner

VERSUS

The Karnal Central Coop. Bank Limited, Karnal and others

....Respondents

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

Present: Mr. Bharat Bhushan Sharma, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.13775 C of 2018

Prayer in the present application is for condonation of delay of
130 days in refiling the appeal.

For the reasons mentioned in the application, which is
supported by an affidavit of the counsel, the same is allowed and delay of
130 days in refiling the appeal stands condoned.

C.M. No.13776 C of 2018

Application is allowed as prayed for.

Exemption is granted from filing certified copy of the grounds
of appeal and Annexure A-1.

C.M. No.13777 C of 2018

Prayer in this application is for leading additional evidence by placing on record order dated 20.09.2001 passed by the Deputy Registrar, Karnal, whereby the application moved by applicant-appellant, claiming himself to be senior to respondent-defendant No.2, Mehar Singh, was allowed.

Prayer made in the application cannot be accepted at this belated stage for the reason that this aspect was known to the appellant-plaintiff from the very beginning that his request has been allowed being assigned seniority over and above respondent-defendant No.2 Mehar Singh. The said evidence cannot be permitted because there is no pleading in this regard and it is also not believable that the applicant-appellant was not aware of this fact. In any case, could not be of any help to appellant-plaintiff as the same would not cover up the inordinate delay in filing the suit by him, which has been one of the grounds for rejection of his claim as made in the suit. Merely because it has been asserted that the appellant-plaintiff was not aware of the fact that the person junior to him had already been promoted, cannot be a ground in itself for condoning the inordinate delay in filing the civil suit. There being no justification given for not producing the order dated 20.09.2001 passed by the Deputy Registrar, Karnal, in evidence during the trial as well as before the Appellate Court, the application cannot be accepted as it does not fulfill the mandate of the statute.

The application, therefore, stands dismissed.

R.S.A. No.5053 of 2018

Challenge in this appeal is to the judgment and decree passed by Civil Judge (Junior Division), Karnal, dated 09.07.2014, whereby suit for

declaration to the effect that name of defendant No.2, Mehar Singh, in the seniority list over and above appellant-plaintiff and his subsequent promotion as B-Grade and A-Grade Secretary on 24.10.2000 and 15.03.2007 respectively be declared illegal, null and void and not binding on the rights of the appellant-plaintiff; with a further declaration to the effect that he is senior to respondent-defendant No.2, Mehar Singh and, therefore, be promoted as A-Grade Secretary from due date as per law, stands dismissed on the ground that the suit, which has been preferred by the appellant-plaintiff, had been filed with an inordinate delay as the cause of action accrued to him in the years 2000 and 2007 respectively but he had approached the Court by filing suit on 27.11.2012. The only explanation, which has been put-forth by him that he was not aware of the factum of promotion of respondent-defendant No.2 has not been believed. The appeal preferred by the appellant-plaintiff has also been dismissed by the Appellate Court, finding no illegality in the judgment and decree of trial Court.

It is the contention of learned counsel for the appellant that the reason as to why the suit of the appellant-plaintiff has been dismissed is primarily because he has not filed the appeal against the order passed by the competent authority for a period of 12 years and has not filed the suit also prior thereto within the limitation period. The Court has not accepted the plea that the appellant-plaintiff was not aware with regard to re-fixation of seniority of respondent-defendant No.2 and had been sleeping over his rights and on this ground he has been ousted. He also contends that the said aspect has not been properly appreciated by the Courts below as the appellant and respondent-defendant No.2, Mehar Singh, were working in different societies and there was no connection between the said societies

and because of the field service, the appellant-plaintiff was not aware of the factum of fixation of seniority and promotion of respondent-defendant No.2. He contends that the judgments and decree as passed by the Courts below cannot sustain and deserve to be set-aside.

I have considered the submissions made by counsel for the appellant-plaintiff and have gone through the judgments and decree passed by the courts below.

The primary claim of the appellant-respondent is that he being senior to respondent-defendant No.2, he should have been considered for promotion prior to him, which has not been given effect to. The said assertion cannot be accepted in the light of the fact that despite there being an order dated 20.09.2001 passed by the Deputy Registrar, Cooperative Societies, Karnal, in favour of the appellant-plaintiff, he has neither asserted his such right nor has it been pleaded in the plaint. No evidence whatsoever has been led by the appellant-plaintiff before the Courts below in this regard.

That apart, the appellant-plaintiff, if had some right, should have asserted the same within some reasonable time, which he has failed to do. The courts below have gone into detail with regard to the pleadings and evidence as well as the statutory rules and have come to the conclusion that the appellant-plaintiff has not been vigilant enough with regard to exercise of his rights. He having failed to availed of his remedy within the reasonable time and, thus, cannot be granted the said benefit. Detailed reasons have been assigned by the learned lower Appellate Court in Para 17 of the judgment, which could not be said to be in any manner not in consonance with the principles of law as the same are based upon proper

appreciation of pleadings and evidence. Each and every aspect with regard to right and claim of the appellant-plaintiff stands dealt with and there is no reason why this Court would take a different view.

There being concurrent findings recorded by the courts below and there being no question of law involved in this case, no interference in the present appeal is called for. The same, therefore, stands dismissed.

December 04, 2019
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(AUGUSTINE GEORGE MASIH)
JUDGE

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