

**C.M. NOS.15167 TO 15169 C OF 2018 &
R.S.A. NO.5495 OF 2018**

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

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**C.M. NOS.15167 TO 15169 C OF 2018 &
R.S.A. NO.5495 OF 2018
DATE OF DECISION: DECEMBER 06, 2019**

Hazari Lal (deceased) through L.Rs

.....Appellants

VERSUS

Haryana State Electricity Board, Panchkula and others

....Respondents

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

Present: Mr. Berjeshwar Singh Jaswal, Advocate,
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. Nos.15167 and 15168 C of 2018

Prayer in the present applications is for condonation of delay of
1 day in filing and 262 days in refiling the appeal.

For the reasons mentioned in the applications, which are duly
supported by separate affidavits, the same are allowed and delay of 1 day
in filing and 262 days in refiling the appeal stands condoned.

C.M. No.15169 C of 2018

Prayer in this application is for impleading the legal
representatives of deceased Hazari Lal, who is stated to have died on
26.09.2017, leaving behind the legal heirs as detailed in Para 2 of the
application. Copy of the death certificate has been appended as Annexure

A-1. It has also been mentioned that the said legal heirs are the only persons

and there is no other person who would be the legal heir of deceased appellant Hazari Lal. The application is supported by an affidavit of Harwinderjit Singh, aged 43 years, son of late Hazari Lal.

In view of the above, the present application is allowed subject to all just exceptions. Legal heirs of deceased Hazari Lal as mentioned in Para 2 of the application are brought on record. Amended memo of parties is taken on record.

R.S.A. No.5495 of 2018

Challenge in this appeal is to the judgment and decree passed by the learned Additional District Judge, Sirsa, dated 04.01.2017, whereby on an appeal preferred by the respondent-defendants, challenging the judgment and decree dated 04.01.1999 passed by the Civil Judge (Junior Division), Sirsa, whereby the suit of deceased Hazari Lal (now represented through his L.Rs) was decreed with order to promote him to the post of Junior Engineer from the date of his eligibility on the said post i.e. 18.08.1992 at the appropriate number, the same has been partly allowed by modifying the decree to the extent of directing the respondent-defendants to consider the claim of deceased Hazari Lal as per the then applicable rules i.e. On 18.08.1992 for promotion within a period of three months from the date of judgment passed by the Appellate Court. Further direction was also issued that in case deceased Hazari Lal was found eligible for promotion, he would be promoted and all benefits be granted to him with effect from 18.08.1992 within six months from the date of judgment of the Appellate Court.

It is the contention of learned counsel for the appellants that the judgment and decree passed by the Civil Judge (Junior Division), Sirsa,

directing the respondents to promote deceased Hazari Lal to the post of Junior Engineer since the date of his eligibility i.e. 18.08.1992 and to place him at the appropriate number in the seniority list as per the rules of the Department is against law. He also contends that by modifying the decree of the trial Court, the learned Additional District Judge, Sirsa, in its judgment dated 04.01.2017 has given a direction for consideration of the claim of deceased Hazari Lal, when it has been found that he has been wrongly denied the promotion on the assertion that there was an adverse annual confidential report against him, which, as has come on record, was never conveyed to him and, thus, could not be taken into consideration. He contends that even if the said confidential report is said to be so, still the bench mark, which has been fixed for consideration for promotion, was fulfilled by deceased Hazari Lal and, therefore, there was no reason for denying him the benefit of promotion to the post of Junior Engineer, which has wrongly been denied to him and his juniors have been promoted. He, thus, contends that the interference by the lower Appellate Court in this regard is unsustainable and deserves to be set-aside.

I have considered the submissions made by learned counsel for the appellant and with his assistance have gone through the judgments and decree passed by the Courts below but do not find myself in agreement with the contentions as raised by learned counsel for the appellant.

It is a settled principle of law that the Court cannot give a direction for promoting a person to a particular post from a particular date. The competence for assessing the suitability and eligibility is primarily of the appointing authority. What is called upon by the Court is to assert where a person is eligible for consideration for promotion and if the criteria is

fulfilled by the said person, he could be declared to be eligible for consideration for promotion. The said settled principle of law has been applied by the learned Additional District Judge, Sirsa, while passing the judgment and decree dated 04.01.2017, which cannot be faulted with.

There is, thus, no illegality in the judgment and decree passed by the lower Appellate Court, which would call for interference by this Court. There is no question of law involved in the present case, which would require adjudication.

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

December 06, 2019
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(AUGUSTINE GEORGE MASIH)
JUDGE

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