

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA NO.1109 of 1990(O&M)

Date of Order:12.10.2023

Punjab State Electricity Board and another**.Appellants****Versus****Bhan Singh****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Ms. Sukriti Gupta, Advocate and
Mr. J.P.S.Sandhu, Advocate
for the appellants.**

**Mr. R.M.Sharma, Advocate
for the respondent.**

ANIL KSHETARPAL, J

1. The correctness of the concurrent findings of fact arrived at by the courts below is challenged by the defendants (Punjab State Electricity Board) in this regular second appeal.

2. The plaintiff's suit for grant of decree of declaration to the effect that he will be deemed to have been promoted as a Line Superintendent Grade-II now redesignated as Junior Engineer Grade-II from 19.08.1981, has been decreed by both the courts below.

3. In order to comprehend the issue involved in the present case, the relevant facts, in brief are required to be noticed.

4. The plaintiff filed a suit on 24.09.1987, claiming that he should be deemed to have been promoted as a Line Superintendent Grade-II with effect from August, 1981 as his juniors were promoted on that date.

5. The defendants while contesting the suit asserted that quota

system was introduced for the first time in the year 1970, based particularly on the qualifications of the candidate. As per the rules, 50% of the promotional posts were reserved for diploma holders in Electrical Engineering, whereas the appellant did not possess a Diploma in Electrical Engineering as he was only possessing certificate from the Industrial Training Institute (ITI).

6. Both the courts decreed the suit on the basis of the judgment passed by the Supreme Court in **Punjab State Electricity Board, Patiala and another vs. Ravinder Kumar Sharma and others, (1986) 4 SCC 617.** It has also been held that the appellant had a recurring cause of action and therefore, the suit was held to be within limitation.

7. In fact, the view taken in **Ravinder Kumar Sharma's case (supra)** was specifically over ruled by the Supreme Court by a larger Bench of the Supreme court in **P. Murugesan And Others vs State Of Tamil Nadu And Others , (1993) 2 SCC 340** and **Sohan Singh Sodhi vs Punjab State Electricity Board Patiala, 2007 (5) SCC, 528.** In fact, recently in a detailed judgment, this Court has re-examined the matter in **Punjab State Electricity Board, Patiala vs. Gandoor Singh, Sub Station Attendant, (RSA No.1055 of 1993, decided on 09.10.2023).**

8. Moreover, the suit filed by the plaintiff was beyond the prescribed time. He was required to file a suit within a period of 3 years from the date his alleged juniors were promoted, however, he filed the suit after a period of more than 6 years.

9. As per the case of the plaintiff, he was denied promotion in the year 1981, however, he filed a suit in the year 1987. The respondent's case would not be covered by continuous cause of action.

10. Keeping in view the aforesaid facts and discussion, the judgments passed by the courts below are not sustainable. Hence, the same are set aside. The suit filed by the plaintiff shall stand dismissed.
11. The appeal stands disposed of accordingly.
12. All the pending miscellaneous applications, if any, are also disposed of.

October 12, 2023

(ANIL KSHETARPAL)

nt

JUDGE

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO