

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

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2023:PHHC:135355

1. RSA-319-1992

Date of decision: 17.10.2023

SHER SINGH

..Appellant

Versus

ANGREZ SINGH & OTHERS

..Respondents

2. RSA-591-1992

GURMEET RAI

..Appellant

Versus

SHER SINGH & OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akshat Dalal, Advocate
for Mr. Anurag Chopra, Advocate
for the appellant (in RSA-591-1992).

Mr. Saurabh Singla, Advocate
for Mr. Rajiv Kawatra, Advocate
for respondent No.2.

ANIL KSHETARPAL, J(Oral)

1. Two connected appeals have been filed against a common judgment passed by the First Appellate Court. In fact, both the appeals are arising from the same suit filed by Sh. Sher Singh (the appellant in RSA-319-1992).

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

3. The plaintiff Sh. Sher Singh filed a suit for grant of decree of declaration to the effect that the plaintiff is senior to Sh. Angrez Singh (defendant No.3) and therefore, entitled to be promoted to the post of Mandi Supervisor from the date Sh. Angrez Singh was promoted. The entire case of

the plaintiff is based on the fact that he is placed at Serial No.1 in the

seniority list, whereas, the respondents are juniors to him. The defendant while contesting the suit claims that services of plaintiff, Sh. Angrez Singh and Sh. Gurmeet Rai (appellant in RSA-591-1992) were regularized on 06.08.1983 and Sh. Angrez Singh was elder and he was recommended for appointment to the post of Mandi Supervisor by the Market Committee vide resolution No.10 dated 23.01.1987. It was also claimed that the seniority list was never circulated or finalized.

4. The learned trial Court decreed the suit filed by the plaintiff resulting in two separate appeals filed by Sh. Angrez Singh and Sh. Gurmeet Rai (defendants in the suit). The First Appellate Court found that the post of Auction Recorder and Mandi Supervisor are from different cadre of posts and in absence of service rules, the seniority cannot be the only basis for promotion.

5. Thus, the First Appellate Court set aside the judgment of the trial Court.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

7. The learned counsel representing Sh. Gurmeet Rai contends that the promotion to the post of Mandi Supervisor was required to be made on the basis of seniority and therefore, the First Appellate Court has erred in reversing the judgment.

8. On a Court question, the learned counsel representing the appellant fairly submits that in the year 1987, the services of Mandi Supervisor were not governed by any service rules or instructions. In absence therefore, Sh. Sher Singh or Sh. Gurmeet Rai could not claim

preferential right simply on the basis of their position in the alleged seniority list.

9. In this case, the Market Committee passed a resolution to promote Sh. Angrez Singh as a Mandi Supervisor. In absence of service rules, the employer opted to promote Sh. Angrez Singh. The aforesaid order would be interfered only if there was a violation of service rules. The Court does not sit in appeal, however, the proceedings were held by the Market Committee.

10. Before a suit is decreed, the plaintiff is expected to make out a case on the basis of service rules in his favour. However, in this case, the appellants failed to make out their case.

11. Consequently, finding no merits, both the appeals are dismissed.

12. All the pending miscellaneous applications, if any, are also disposed of.

October 17th, 2023
Ay

(ANIL KSHETARPAL)
JUDGE

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