

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 559 of 1992****Date of Decision: 06.12.2023**

The Punjab State Agriculture and Marketing Board, Chandigarh

... Appellant(s)

Versus

Teja Singh and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Amit Kaith, Advocate
for the appellant(s).Mr. Raghav Dayal Gupta, Mr. Raghvinder Singh and
Mr. Viresh Dahiya, Advocates, for the respondent No.1.**Anil Kshetarpal, J.**

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. In this regular second appeal, the correctness of the concurrent findings of facts, arrived at by both the Courts below, is assailed by the Punjab State Agriculture and Marketing Board, Chandigarh (hereinafter referred to as “the Board”).

3. Initially, the respondent No.1 was appointed as an Auction Recorder on 15.03.1962 by the Market Committee, Jaitu. Subsequently, he was promoted as a Mandi Supervisor-cum-Fee Collector on 21.04.1981.

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Vide resolution No. 290 dated 30.09.1982, the respondent No.1 was promoted as an Accountant. On two different occasions, the Market Committee, Jaitu, had passed the resolutions to promote the respondent No.1 to the post of Accountant. However, the Board had created obstructions in promoting him to the post of Accountant, forcing the plaintiff to file a suit. The Board, while defending the suit, claimed that promotion of the respondent No.1 has never been approved by the Board, therefore, the respondent No.1 was not entitled to be promoted to the post of Accountant. Both the Courts below have held that the respondent No.1 was the senior most in the Market Committee, Jaitu. After interpreting Section 20(2) of the Punjab Agricultural Produce Markets Act, 1961 (hereinafter referred to as “the 1961 Act”), both the Courts below have held that the Committee is required to seek previous approval of the Board to employ the officers and the officials. However, it is not required to seek prior approval of the Board to promote the existing employee.

4. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

5. Section 20(2) of the 1961 Act reads as under:-

“(2). A committee may, with the previous approval of the (Secretary of the Board) employ such other officers and servants as may be necessary for the management of the Market and may pay such officers and servants salaries as may be fixed by the Board for different cadres and shall have the power to control and punish them.”

6. The learned counsel representing the appellant submits that the

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word “employ” in Section 20 of the 1961 Act would include promotion.

7. This Court has considered the submissions of the learned counsel representing the parties. As per the service jurisprudence, the word “employ” is not a synonym of the word “promotion”.

8. The learned counsel representing the appellant also admits that as per the judgments passed by both the Courts below, all the benefits have already been released to the respondent No.1. He was employed in the year 1961 and by this time, he would have retired on attaining the age of superannuation.

9. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

December 06, 2023

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No