

2023:PHHC:163999

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

RSA-744-1995 (O&M)
Date of decision: 20.12.2023

Punjab State Electricity Board

....Appellant

Versus

Sudarshan Lal

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Alok Mittal, Advocate for the appellant
Mr. Manjinder Singh Saini, Advocate for the
respondent

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the defendant (the Punjab State Electricity Board) assails the correctness of the judgment and decree passed by the First Appellate Court. The plaintiff(respondent) filed a suit for the grant of decree of declaration that he is entitled to be promoted as a Sub Station Operator (now Junior Engineer-II) on the basis of seniority. In substance, he claims that he holds a Matriculate certificate alongwith ITI certificate and, therefore, he is entitled to be considered for promotion as a Sub Station Operator. The defendant, while contesting the suit, claims that the plaintiff is not entitled to be considered for promotion as he does not possess matriculation certificate with English Core and Mathematics subjects. The trial court dismissed the suit. The First Appellate Court reversed the judgment and decree passed by the trial Court on the ground that the

respondent was appointed as a Sub Station Attendant on the basis of the same qualification and, therefore, he cannot be ignored from promotion as there is a deemed relaxation of the qualification. Moreover, the First Appellate Court held that Sh.Baldev Singh and Sh. Gulshan Rai, Sub Station Attendants, had also not passed the minimum qualification as required for the post and they have also been promoted.

2. Heard the learned counsel representing the parties at length and with their able assistance perused the paper book. They have also filed their written synopsis.

3. Learned counsel representing the appellant submits that though the respondent has passed the matriculation examination, however, he has not passed the same with the subject English Core. He submits that for appointment, by way of promotion to the post of Sub Station Operator, Matriculation certificate with English Core and Mathematics is the necessary qualification, which the respondent does not possess. He further submits that the qualification of the respondent was never relaxed.

4. On the other hand, the learned counsel representing the respondent submits that the respondent has been appointed as a Sub Station Attendant and, therefore, he cannot be denied consideration for promotion on account of the qualification only.

5. It is evident that Sub Station Operator is the higher post in hierarchy than the Sub Station Attendant. The minimum

qualification for the post of Sub Station Attendant is Matriculation, whereas for Sub Station Operator, the minimum qualification is Matriculation certificate with English Core and Mathematics as subjects. Admittedly, the respondent does not possess the qualification required for the post of Sub Station Operation. Evidently, the First Appellate Court has erred in observing that the qualification was relaxed in the case of the respondent. There is no question of relaxation as the respondent was appointed as a Sub Station Attendant, for which the minimum qualification was only a matriculation certificate.

6. Similarly, the second reason given by the First Appellate Court is also incorrect as the learned counsel representing the appellant submits that Sh. Baldev Singh and Sh. Gulshan Rai, subsequently passed the English Core examination and thereafter, they were promoted.

7. Learned counsel representing the respondent failed to controvert the aforesaid fact.

8. With reference to the argument of the learned counsel representing the respondent, it may be noted that the employer is well within his jurisdiction to prescribe a higher qualification for the promotional post. The respondent cannot claim entitlement to promotion merely on the basis of seniority, particularly when he does not possess the minimum qualification for the post to which he

wants to get promoted. Consequently, the judgment of the First Appellate Court is set aside and that of the trial Court is restored.

9. The appeal stands allowed.

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

20.12.2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No