

RSA-1044-1997 (O&M)
and other connected case 1 2023:PHHC:165629

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

1.RSA-1044-1997 (O&M)

Punjab State Electricity Board and others

....Appellants

Versus

Malkiat Singh

..Respondent

2.RSA-1045-1997 (O&M)

Punjab State Electricity Board and others

....Appellants

Versus

Harmohinder Pal (since deceased) through his LRs

..Respondent

Date of decision: 22.12.2023

Reserved on : 19.12.2023

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. J.P.S.Sandhu, Advocate for the appellants

Mr. S.C.Arora, Advocate for the respondent
in RSA-1044-1997

ANIL KSHETARPAL, J

1. With the consent of the learned counsel representing the parties, two connected Regular Second Appeals i.e RSA-1044-1997 and RSA-1045-1997, involving identical issue, are being disposed of, by a common judgment.

2. The Punjab State Electricity Board, the defendant and its officials have filed these two Regular Second Appeals to challenge the correctness of the judgment and decree passed by the First Appellate Court. Two different suits filed by the respondents were dismissed by the trial court on the ground that these have been filed after the expiry of the prescribed period of limitation i.e 3 years. The First Appellate Court, after noticing the fact that in both the suits, juniors to the plaintiffs, were promoted on 25.11.1988, and the suit was filed on 08.11.1991, reversed the judgment and decree passed by the trial court, resulting in decreeing the suit.

3. Learned counsel representing the parties have also filed their respective synopsis.

4. In these cases, the plaintiffs were working as Sub Station Attendants. They filed two suits for declaration that they are entitled to be promoted as Sub Station Operators w.e.f 05.07.1977, the date when their juniors got promoted. In fact, the plaintiffs were promoted as Sub Station Operator w.e.f 19.01.1985. However, their juniors were promoted on 25.11.1988 w.e.f 05.07.1977. The trial court held that the suit was required to be filed within three years from 05.07.1977. However, it was overlooked that in fact the juniors were promoted for the first time on 25.11.1998 w.e.f. 05.07.1977.

5. In the written arguments, the learned counsel representing the appellant has submitted that the matter in issue is covered by the judgments passed by the Supreme Court in **P.Murugesan vs. State of Tamil Nadu 1993 (2) SCC 940** which was followed by this Court in **Om Parkash Kakyalia vs. PSEB RSJ 1994 (3)269**.

6. It is submitted by the learned counsel representing the respondents that the previous practice for the promotion of the employees was based on the quota system and higher qualifications from various categories. However, they could not be reverted once certain years have passed after the promotion.

7. This Court has considered the submissions made by the learned counsel representing the parties. It is evident that submission of learned counsel representing the appellant is being made for the first time at the stage of second appeal. It is evident that this argument was never taken up before the courts below. It would not be appropriate to permit the appellant to put forth a new argument, which was never taken up before the courts below.

8. Keeping in view the aforesaid facts, no ground to interfere in the judgment and decree passed by the First Appellate Court is made out.

9. Hence, dismissed.

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10. All the pending miscellaneous applications, if any, are

also disposed of.

22 .12.2023
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE