

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 567 of 2019

Date of Decision: 13.09.2023

Jagir Singh

... Appellant(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sarabjit Singh Khaira, Advocate
for the petitioner(s).

Mr. Ajit Singh Natt, Assistant Advocate General,
Punjab.

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. The correctness of the concurrent findings of facts, arrived at by both the Courts below, is assailed in this second appeal filed by the plaintiff.

3. The plaintiff retired from the post of Deputy Ranger on 30.06.2012. On 19.02.2015, he filed a suit for declaration that he is entitled to promotion as Ranger. His case was based on two different claims. The plaintiff, firstly, claims that during the last few years, he has worked as Ranger and secondly, despite vacancies no promotion order was made.

Both the Courts below have found that as per para 1.9 of the

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Punjab Forest Manual Volume-II, a Deputy Ranger can be posted as a Ranger Incharge, but that will not amount to promotion or any additional benefit. It has come on record that the plaintiff was never promoted as Ranger or was given the current duty charge.

5. As far as the another ground is concerned, it would be noted that both the Courts below have concurrently found that no junior to the petitioner was promoted till the appellant retired from the service on 30.06.2012.

6. The First Appellate Court was correct in observing that mere availability of the vacancy is no ground to direct the employers to promote the employee. It is the prerogative of the employer to order promotion as per their requirement.

7. 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

September 13, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No