

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(124)

RSA No. 290 of 1993(O&M)
Date of Decision : 02.04.2024

Punjab State Electricity Board and another

...Appellants

Versus

Jit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Aashna Gill, Advocate for the appellants.

Ms. Himani Jamwal, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

1. In the present regular second appeal, the judgment and decree dated 15.03.1989 passed by the trial court as well as judgment and decree dated 18.08.1992 passed by the appellate court have been assailed.

2. Learned counsel for the appellants-defendants argues that the basis of allowing the claim of the respondent-plaintiff is decision of the Hon'ble Supreme Court of India in ***Punjab State Electricity Board, Patiala and another Vs. Ravinder Kumar Sharma and others, (1986) 4 SCC 617***, according to which, the quota prescribed for diploma and non-diploma holders for further promotion was held to be bad. Learned counsel for the appellants-defendants submits that the judgment in ***Ravinder Kumar Sharma's case (supra)*** was not followed by a larger bench of Supreme Court while passing order in ***P. Murugesan and others***

Vs. *State of Tamil Nadu and others*, (1993) 2 SCC 340, Paragraph-19,
which reads as under :-

*“19. The learned counsel for respondents relied upon the decision in [Punjab State Electricity Board and Anr. v. Ravinder Kumar Sharma and Ors.](#), [1987] 1 SCR 72, a decision rendered by a Bench comprising A.P. Sen and B.C. Ray, JJ. the category of line-men in the service of the Punjab State Electricity Board comprised both diploma- holders and others who may be referred to as non-diploma- holders. They constituted one single category having a common seniority list. By means of the Rules issued under the proviso to [Article 309](#), a quota was prescribed for diploma-holders, the result of which was that diploma- holders who were far junior to the non-diploma-holders were promoted ignoring the non-diploma-holders. The rule was held to be bad by the learned Subordinate Judge, Patiala. On appeal, the Additional District Judge, Patiala affirmed the judgment. It was affirmed by the High Court as well. The matter was brought to this Court. This court affirmed the judgment of the High Court. A persual of the judgment shows that the attention of the Bench was not drawn either to *T.N. Khosa* or to other decisions. Reference was made only to the obser-*

*vations in *Shujat Ali* quoted hereinbefore and it was held that the distinction made between the diploma-holders and non-diploma-holders was discriminatory and bad. Apart from the distinction on facts between that case and the case before us, it is evident that non-consideration of the *T.N. Khosa* and other decisions relevant under the subject has led to the laying down of a proposition which seems to run counter to *T.N. Khosa*. With great respect to the learned Judges who decided that case, we are unable to accept the broad proposition flowing from the case.”*

3. Learned counsel for the appellants-defendants submits that once the principle of law, which has been made the basis of the judgments

of the courts below, has not been followed by the Hon'ble Supreme Court of India, the present regular second appeal may kindly be allowed.

4. Learned counsel for the respondent-plaintiff has not been able to dispute that the judgment in ***Ravinder Kumar Sharma's case (supra)***, has held to be bad by the Hon'ble Supreme Court of India.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It may be noticed that while issuing notice of motion in the present appeal, the judgments and decrees of the courts below was stayed. The relief in terms of the judgments of the courts below has not been extended to the respondent-plaintiff as of now.

7. Once, the basis of the judgments of the courts is the judgment of Hon'ble Supreme Court of India in ***Ravinder Kumar Sharma's case (supra)*** that there cannot be any quota between the diploma and non-diploma holders for further promotions and the respondent-plaintiff being senior to the diploma holders, is entitled for promotion on the basis of seniority, but the same is held to be not a good law in the judgment of the Hon'ble Supreme Court of India in ***P. Murugesan and others (supra)***, in the year 1993. That being the factual position that after the year 1993 the quota between the diploma holders and non-diploma holders for further promotion has again been revived, the judgments and decrees of the courts below granting promotion by ignoring the quota, cannot be upheld.

8. Learned counsel for the respondent-plaintiff has not been able to dispute the said fact.

9. Keeping in view the above, the present regular second appeal is allowed. The judgments and decrees of the courts below dated 15.03.1989 and 18.08.1992 are set-aside being perverse to the settled principle of law as settled in *P. Murugesan and others (supra)* and the suit filed by the respondent-plaintiff is dismissed.

10. It is made clear that in case, the respondent-plaintiff has already been promoted de-horse the quota rule, the said benefit if extended independent of the judgment of the Courts below, will not be withdrawn from the respondent-plaintiff, especially, he has already retired and must be under late eighties.

11. Present regular second appeal is allowed.

Any miscellaneous application, if pending, is disposed of.

April 2nd, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No