

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1755/1992(O&M) and
XOBS-3-C-1993
Reserved On: 17.11.2023
Date of Order: 09.01.2024

State of Punjab

.Petitioner

Versus

Kuldip Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Arora, AAG, Punjab

Mr. Prateek Mahajan, Advocate
Mr. Ashish Gupta, Advocate
for the respondent.

ANIL KSHETARPAL, J

1. In this regular second appeal, the respondent-Sh. Kuldip Singh has also filed the cross-objections. Hence, the regular second appeal as well as the cross-objections are being disposed of by a common order.

2 In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3. The plaintiff (respondent) filed a suit for grant of decree of declaration and mandatory injunction while directing the defendant to treat the respondent as promoted to the post of Chief Storekeeper with effect from 24.10.1981, and also that he is entitled to the pay scale of Chief Storekeeper since the day he took charge.

4. The respondent (cross-objector) Mr. Kuldeep Singh joined the Punjab Roadways as a Store-boy on 14.07.1970. He was promoted as a

Assistant Storekeeper on 14.07.1977. Thereafter, he was promoted as a store keeper on 21.09.1979. On 24.10.1981, he was further promoted as the Chief Storekeeper and he took the charge on 04.11.1981 as Chief Storekeeper. The respondent claimed that he was regularly promoted, whereas the appellant claims that he was promoted against a post which was reserved for direct recruitment and therefore he was posted on a temporary basis as a Chief Storekeeper.

5. The trial court held that the respondent completed three years service as a storekeeper on 21.09.1982 and therefore, he is entitled to be promoted as a Chief Storekeeper with effect from 22.09.1982. The first appellate court modified the judgment of the trial court. It was held that the respondent cannot be treated to have been promoted as a Chief Storekeeper, however, he will be entitled to arrears of salary for a period of three years prior to the filing of the suit as he continued to work as a Chief Storekeeper for sufficiently long time. Thus, it was held that the respondent shall be entitled to pay scale attached to the post of Chief Storekeeper with effect from 15.01.1984.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

7. The learned counsel representing the State of Punjab contends that there was a specific stipulation in the order dated 24.10.1981, that the respondent is only posted as a Chief Storekeeper in his own pay scale on a purely temporary basis. As per the conditions stipulated in the order which is Ex.PW1/1, it is evident that the post was reserved for direct recruitment and the respondent was liable to be reverted at any point in time without

any notice.

8. On the other hand, the learned counsel representing the respondent contends that on completion of three years of service as Storekeeper the respondent was entitled to be promoted as a Chief Storekeeper.

9. This court has considered the submissions of the learned counsel representing the parties.

10. While admitting the appeal on 13.10.1992, no interim order was granted in favour of the respondent. It is admitted that the respondent continued to discharge the duties of Chief Storekeeper from 1981. Even if the post was reserved for direct recruitment, still the respondent was entitled to the pay scale similar to the post of Chief Storekeeper particularly when he has continued to discharge the duties of post of Chief Storekeeper from the year 1981. Even if the respondent was not promoted on a regular basis, even then he shall be entitled to pay.

11. There is also no substance in the argument of the learned counsel representing the respondent because the post against which the respondent was posted was reserved for a direct recruit. Hence, the respondent was not amongst the candidates who had to be given an opportunity as a right if the vacancy arose.

12. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

13. Hence, the appeal filed by the State as well as the cross objections filed by the respondent are dismissed.

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

09th January, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO