

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 2297 of 1992

Reserved On: 04.01.2024
Pronounced On: 18.01.2024

Bhanu Parkash
... Appellant(s)

Versus

State of Haryana
... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Varun Gupta, Advocate
for the appellant(s).

Ms. Vibha Tewari, Assistant Advocate General,
Haryana and Mr. Jaspal Singh Pannu, Assistant Advocate
General, Haryana, for the respondent.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab and 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. In this regular second appeal, the correctness of the concurrent findings of facts, arrived at by both the Courts below while dismissing the plaintiff's suit for the grant of decree of declaration to the effect that the orders dated 09.08.1979, 27.07.1984 and 19.03.1985, as also the order dated 24.04.1982, are wrong, illegal and without jurisdiction and that the order dated 24.04.1982, is liable to be modified to the extent that the plaintiff is

Regular Second Appeal No. 2297 of 1992**2**

entitled to his seniority in the general line side w.e.f. the date of his appointment i.e. 29.04.1966, or from the date of his confirmation i.e. 18.03.1968, with all the consequential benefits of the service, is assailed in this appeal.

3. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed. The appellant was appointed as an Assistant Nazir on 29.06.1966, whereas he was confirmed as Nazir on 18.03.1968. On 28.02.1975, the appellant was posted as an Officiating Civil Nazir where he continued to work till 12.08.1975. On 04.08.1975, he was posted as C.O.C. in the office of the Senior Sub Judge, Narnaul, where he worked till 19.08.1979. In the meantime, on the application moved by the appellant, the District and Sessions Judge, vide order dated 28.06.1979, shifted him from the Process Serving Agency to the general line establishment. Thereafter, the plaintiff was posted as an Assistant Ahlmad vide order dated 09.08.1979. The District and Sessions Judge, vide order dated 24.04.1982, had fixed the seniority of the plaintiff in the general line w.e.f. 13.08.1975. The appellant preferred a representation before the High Court which was rejected vide order dated 24.07.1984. He filed a review petition which was also dismissed on 19.03.1985.

4. On 18.09.1986, the plaintiff filed the suit. Both the Courts below, on the appreciation of the evidence, have concurrently come to a conclusion that the 'process serving line' and the 'general line establishment' are two different, distinct and well established hierarchy of posts, therefore, the appellant cannot claim seniority in the general line w.e.f. 13.08.1975, particularly when at his own request, he was absorbed in the general line in

the year 1979.

5. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book along with the requisitioned record and the synopsis filed by the learned counsel representing the parties.

6. The learned counsel representing the appellant submits that the appellant was posted as a Civil Nazir, which was the post of the general line, on 18.03.1968. Thereafter, he was posted as C.O.C. which is again from the general line. Thereafter, he continued to work as a Civil Nazir, which was again the general line post. He submits that the main cadre of all these posts is common, therefore, the appellant is entitled to seniority from the date of his appointment.

7. On the other hand, the learned counsel representing the respondent has submitted that both the lines are different and the appellant was never formally promoted to the post of Civil Nazir. It is submitted that that the appellant was neither confirmed as a Civil Nazir nor he was posted and confirmed as C.O.C. It is submitted that on his request, the appellant was adjusted in the general line establishment, therefore, he cannot claim seniority from the date of his posting in the general line establishment.

8. This Court has considered the submissions of the learned counsel representing the parties.

9. It is the case of the appellant that he was appointed as an Assistant Nazir on 29.06.1966, whereas he was confirmed as a Nazir on 18.03.1968. Subsequently, he was posted as a Civil Nazir and C.O.C. which falls in the general line establishment. However, this was only a make shift

Regular Second Appeal No. 2297 of 1992

arrangement. On the request of the appellant, the District and Sessions Judge had ordered his adjustment in the general line in the year 1979, whereas he has been given seniority from 13.08.1975. It is evident that the appellant was not appointed in the general line before 1979. Therefore, the appellant cannot claim seniority from the date of his appointment or the date of his confirmation as Nazir in the general line.

10. Keeping in view the aforesaid facts and discussion, finding no merits, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

January 18, 2024
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No