

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1257 of 1992(O&M)
Reserved On: 30.10.2023
Pronounced On:08.01.2024

The Punjab State Electricity Board, Sangrur

...Appellant

Versus

Dharam Paul

...Respondent

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present: Mr. J.S.Sandhu, Advocate,
for the appellant

Mr. Abhishek Kaushik, Advocate
for the respondent.

ANIL KSHETARPAL, J.

1. In this regular second appeal, the defendant assails the correctness of the concurrent finding of fact arrived at by the courts below while decreeing the plaintiff's (respondent) suit to the effect that he is entitled to be considered for promotion as a sub-station operator with effect from 29.08.1984, the day his juniors were promoted.

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

3. The only argument of the learned counsel representing the appellant is with respect to the requirement of the plaintiff to implead his juniors as a party to the suit. While relying upon the judgment passed by the Full Bench in Punjab State Electricity Board, Patiala and another vs. Ashok Kumar Sehgal and others, AIR 1990 (P&H) 117, the learned counsel contends that in the absence of every affected person, the suit filed by the plaintiff was not maintainable.

4. On the other hand, the learned counsel representing the respondent has drawn the attention of the court to the penultimate para of the judgment passed by the first appellate court when the judgment of the trial court was modified and it was held that the plaintiff is entitled to be promoted/considered for promotion as a sub-station operator without affecting the rights of the persons who have already been promoted.

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

6. The learned counsel representing the appellant has drawn the attention of the court to para 53 of the judgment passed in **Ashok Kumar Sehgal's case (supra)**. In the aforesaid case, the Full Bench has held that every affected person has a right to be heard. However, as already noticed, the first appellate court has held that the petitioner shall be considered for promotion without affecting the rights of any other person who have already been promoted. In view of the aforesaid position, the appellate court has already taken care of the objection of the appellant.

7. In any case, it is evident that the plaintiff (respondent) was recruited on work charge basis as T mate from September, 1968. By now he must have retired. Moreover, while admitting the appeal, no interim protection was granted, though, a notice regarding stay was issued.

8. In view of the aforesaid facts, only the notional benefits, if not already granted, are required to be given to the respondent.

9. The learned counsel representing the appellant did not press any other argument.

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

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

08th January, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO