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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1706-1994
Date of decision:-04.04.2024

Basirdeen

...Appellant

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Anmol Dutt Sharma, Advocate
for the appellant.

Mr.Sharad Aggarwal, DAG, Haryana.

SUVIR SEHGAL, J.(ORAL)

1. Mr.Anmol Dutt Sharma, Advocate has put in appearance on behalf of appellant and has filed his vakalatnama, which is taken on record.

2. The plaintiff/appellant is in second appeal before this Court assailing the judgment and decree passed by the First Appellate Court on 04.06.1993.

3. Brief facts, may be noticed. Plaintiff/appellant was appointed as a Helper/Blacksmith with the Haryana Roadways on 07.01.1983 and was confirmed on the post. Claiming that some of his

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junior colleagues have been promoted, ignoring him, he filed a suit for declaration to the effect that he is entitled for promotion as Assistant Blacksmith w.e.f. 19.01.1987 along with consequential relief of mandatory injunction. Upon notice, suit was contested by the defendants/respondents by filing a written statement wherein various preliminary submissions were taken and on merits, a stand was taken that the plaintiff/appellant does not possess the minimum qualification for promotion. Plaintiff re-asserted his claim by filing replication. After issues were framed, trial Court by judgment and decree dated 20.12.1991 decreed the suit, but the findings were reversed in appeal filed by the defendants. This has resulted in the institution of the present second appeal at the hands of the plaintiff/appellant.

4. I have heard the counsel for the parties and considered their respective submissions as well as examined the record with their able assistance.

5. Instructions dated 21.05.1984, Ex.D1, which provide for promotion of Helpers were circulated by the defendants/respondents, which are necessary to be examined in order to determine the controversy. Their relevant extract is as under:

“Sub: Promotion of helpers to higher posts.

Please refer to decision taken in Commercial Officers meeting held on 18.04.1984 at Karnal regarding item No.12(ii) on the above subject.

2. *A committee was constituted by the department to examine the issue of promotion of helpers to the semi-skilled post on their respective trades. The Committee submitted its report on the subject and*

made the following recommendations:-

“The promotion of helpers to the post of Assistant Fitter, Asstt. Carpenter, Asstt. Electrician etc. should be made on the basis of tradewise seniority and not on the basis of joint seniority.

Provided they passes the requisite qualification i.e. Middle pass and 2 years experience in the respective trade and option of other helpers be obtained for promotion to the post of Asstt. in the respective trade provided he qualifies the said qualification and experience in the trade on which promotion case would be considered.”

The recommendations of the committee have been accepted and it has been decided that in future all the promotion cases of helpers be decided on the basis of the recommendations made by the committee.

Please acknowledge its receipt.”

6. A perusal of the above reproduced instructions show that they provide for a minimum qualification of Middle along with two years experience for promotion of Helpers to higher posts. During his examination, the plaintiff has conceded that he is illiterate and does not possess the requisite qualification. Plaintiff/appellant is, therefore, not eligible for promotion and his claim, has rightly been ignored. Reliance placed by the appellant upon order Mark B to contend that a junior, Sadhu Ram son of Mangli Ram, has been promoted although he does not possess the requisite qualification is of no aid to him. This unexhibited order shows that the qualification of Sadhu Ram has not

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been mentioned. No evidence has been led by the appellant to show that Sadhu Ram did not possess the requisite qualification.

7. In view of the above discussion, this Court is of the considered view that the finding recorded by the First Appellate Court does not call for any interference.

8. Finding no merit in the appeal, it is hereby dismissed with no orders as to costs.

(SUVIR SEHGAL)
JUDGE

04.04.2024

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No