

RSA-802-1995

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

219

RSA-802-1995
Date of decision:29.01.2024

SAVINDER KUMAR

... APPELLANT

VS.

HARYANA STATE & ORS.

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sandeep K. Karma, Advocate for
Mr. G.P. Singh, Advocate for the appellant.

Mr. Sharad Aggarwal, DAG, Haryana,
for respondent No.1.

None for respondents No.2 and 3.

SUVIR SEHGAL J. (ORAL)

1. Plaintiff-appellant has filed the present second appeal challenging the judgment and decree dated 18.10.1994 passed by the First Appellate Court, whereby judgment and decree dated 01.10.1992 passed by the Trial Court has been set aside and the suit has been dismissed.
2. Brief factual position may be noticed.
3. Plaintiff-appellant has filed a suit for declaration pleading that he joined as Air Conditioner and Refrigerator Mechanic on 23.03.1977, whereas defendant-respondents No.2 and 3 joined the same post on

RSA-802-1995

-2-

10.05.1977. They were promoted as Assistant Foremen-cum Chargeman, but the plaintiff-appellant was ignored. He claims to have submitted representations and when they did not yield any result, he filed a suit for declaration to the effect that he may be deemed to be promoted as Chargeman/Assistant Foremen from the date his juniors/defendants-respondents No.2 and 3 were promoted.

4. Upon notice, suit has been contested by the defendants-respondents by filing separate written statements. In its written statement, State-defendant/respondent No.1 has submitted that respondents No.2 and 3 were promoted in 1979 and their promotion list was circulated in November, 1983, and the suit by the plaintiff-appellant is barred by time. It has been further submitted that both the private respondents were engaged in different divisions and that the rules governing the service of the plaintiff-appellant are being framed and he would be promoted as and when there is an availability of a post. On the basis of the pleadings of the parties, issues were framed and after the parties led evidence, Trial Court decreed the suit and held that the plaintiff-appellant is deemed to be promoted from the date he was made regular and he is entitled to pay and enhanced allowances attached to the promotional post. In appeal preferred by State-respondent No.1 as noticed above, the judgment and decree of the Trial Court was reversed. Hence, the present second appeal at the hands of the plaintiff-appellant.

5. Counsel for the plaintiff-appellant has argued that after rendering work charge service, the plaintiff-appellant as well as the private respondents were made regular and a joint seniority list was

prepared. It is his submission that the seniority list was to be maintained at the circle level and the divisional level seniority list has no significance. Still further, he submits that the plaintiff-appellant had given various representations, which were not acceded to and the Lower Appellate Court has erred in holding that the suit is barred by time.

6. State counsel has, however, supported the judgment and decree passed by the First Appellate Court.

7. I have heard counsel for the parties and considered their respective submissions.

8. There is no dispute that the plaintiff-appellant was appointed prior in point of time. It is also an admitted position that the private respondents were promoted in the year 1979-1980. Despite being aware of the promotion order of the private respondents, plaintiff-appellant instituted the suit for declaration in September, 1987. No reason whatsoever has been given for the delay in the institution of the suit, which was hopelessly barred by time. Although, it has been urged by the counsel that repeated representations had been given by him, but a categorical finding has been returned by the Lower Appellate Court that he failed to produce any evidence to show that he had ever represented. His ocular evidence in this regard is meaningless as it is not supported by any document. Mere fact that the case of the plaintiff-appellant has been sent for consideration for promotion would not extend the period of limitation. The plaintiff-appellant has slept over his rights and failed to assert them when the cause arose. Hon'ble Supreme Court in *State of*

Punjab and others Vs. Gurdev Singh (1991) 4 SCC 1; State of Punjab

Vs. Rajinder Singh 1999 SCC (L & S) 664 and *State of Punjab and another Vs. Balkaran Singh (2006) 12 SCC 709* has held that Article 58 of the Schedule to the Limitation Act, 1963 prescribes a period of three years for filing suit for declaration from the date the cause of action arises. Civil suit by the plaintiff-appellant is clearly barred by limitation.

9. Looked at from all possible angles, this Court is of the firm view that there is no illegality or infirmity in the judgment and decree passed by the Lower Appellate Court, which deserves to be upheld.
10. Finding no merit in the appeal, it is hereby dismissed with no order as to costs.
11. Pending application(s), if any, shall stand disposed of.

29.01.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No