

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

RSA-1818-1996
Date of decision : 04.04.2024

State of Punjab and othersAppellants

V/S

Sadhu RamRespondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Rajesh Sehgal, Addl. A.G., Punjab.

None for the respondent.

NAMIT KUMAR, J. (ORAL)

1. The appellants have filed the instant appeal against judgment and decree dated 05.02.1996, whereby learned District Judge, Hoshiarpur while allowing the appeal filed by the respondent/plaintiff has set aside the judgment and decree dated 14.02.1994 passed by learned Senior Sub Judge, Hoshiapur, whereby a suit for declaration filed by the respondent/plaintiff has been dismissed.
2. Brief facts of the case are that the respondent/plaintiff filed a suit for a declaration that the order dated 07.09.1992 passed by State by which his seniority was fixed from the date of his confirmation i.e. 17.04.1984 instead of the date of his appointment i.e. 22.11.1965, was illegal. The said suit was dismissed by the trial Court vide judgment and decree dated 14.02.1994. Aggrieved against the said judgment, the respondent/plaintiff filed an appeal which was allowed by the lower

Appellate Court vide judgment and decree dated 05.02.1996. Now, the appellants/defendants have filed the present regular second appeal.

3. While issuing notice of motion on 27.02.1997, the following contention of learned State counsel was recorded :-

“The determination of seniority is governed by the provisions of Rule 13 which inter alia provides that “the seniority of members of the service shall in each class of appointment shown in Appendix ‘A’ be determined by the date of their substantive appointment to a permanent vacancy in such class.....” Mr. dhillon, counsel for the appellants contends that the plaintiff has not proved on the record that he was appointed against a permanent vacancy on November 22, 1965. He further states that the persons who were likely to be affected by the change in seniority were necessary parties and in their absence, the claim as made in the plaint could not have been decreed.

After hearing counsel for the parties, the appeal is admitted. It is further directed that the operation of the judgment and decree under appeal shall remain stayed during the pendency of the case.”

4. In terms of order dated 26.02.2024, notice was issued to the sole respondent. As per office report, the sole respondent has been served, however, none has put in appearance on his behalf.

5. Learned State counsel has produced a copy of letter dated 01.04.2024 written by the sole respondent-Sadhu Ram, retired Forester, addressed to the Chief Forest Officer wherein it has been stated that he already stood retired from service, on attaining the age of superannuation, on 31.05.2004 and while he was in service, he was

RSA-1818-1996

3

promoted to the post of Forester in the year 1996 and get all the promotional benefits as well and he does not want to pursue the present appeal i.e. RSA No.1818 of 1996 ‘State of Punjab Vs. Sadhu Ram’. The said letter is taken on record.

6. In view of the above, the present appeal is allowed and the judgment and decree dated 05.02.1996 passed by the lower Appellate Court is hereby set aside.

7. Decree-sheet be prepared accordingly.

8. However, liberty is granted to the sole respondent for revival of the present appeal in case he still aggrieved against this order.

9. A copy of this order be sent to the respondent for information

04.04.2024
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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No