

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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2024:PHHC:000661

RSA-184-1996 (O&M)

Date of decision: 05.01.2024

STATE OF PUNJAB & ANR.

..Appellants

Versus

TARSEM CHAND

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Arora, AAG, Punjab.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the correctness of the findings of fact arrived at by the First Appellate Court, which in turn has reversed the judgment and decree passed by the trial Court is challenged by the defendant (State of Punjab). The respondent filed a suit for grant of declaration to the effect that he is a confirmed employee with effect from 1972 and he is entitled to consequential benefits including promotion from the date his junior Sh. Ram Lal was promoted. In the alternative, he prays for grant of decree of declaration to the effect that the order dated 17.06.1991, passed by defendant No.2 while fixing his seniority at serial No.11 by treating his date of appointment as 04.06.1981, and not from 22.09.1972, is illegal, null and void. The defendant contested the suit while claiming that the plaintiff was transferred from Amritsar to Gurdaspur and therefore, he is entitled to get his seniority counted from the year 1981. It was claimed that cadre of clerks is a district cadre and the seniority is counted district wise and prior service of the transferred employees is not counted towards the seniority. The First Appellate Court has found that the respondent was transferred on account of various administrative reasons and not on his personal requests. Thus, the respondent could not be deprived of the benefit of nine years service as he never made a request for transferring him to Gurdaspur.

2. The learned counsel representing the State of Punjab submits that during the pendency of the appeal, the respondent was convicted in a criminal case and was dismissed from service in the year 2009.
3. Be that as it may.
4. The scope of this appeal is restricted to the facts of the present case. Any subsequent development shall be operative in accordance with law.
5. With these observations, the present appeal is disposed of.
6. All the pending miscellaneous applications, if any, are also disposed of.

January 05th, 2024
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(ANIL KSHETARPAL)
JUDGE

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