

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

(206)

RSA-2001-1998

Date of Decision : January 19, 2024

**Director Pt. B.D. Sharma Post Graduate Institute of Medical Science
Rohtak**

.. Appellant**Versus****Asha Soni****.. Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Ms. Palak Jain, Advocate, for

Mr. Harsh Kinra, Advocate, for the respondent.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Present regular second appeal has been filed challenging the judgment and decree of the Courts below by which the suit filed by the respondent was allowed by the trial Court vide judgment and decree dated 30.07.1996 and even the appeal preferred against the said judgment was dismissed by the lower Appellate Court on 02.05.1998.

2. Learned counsel for the appellant argues that the civil suit filed by the respondent-plaintiff was to claim promotion on the basis of the reservation being a backward class whereas, she had entered into service in a general category hence, the respondent-plaintiff is estoppel from claiming the benefit of reservation for promotion to the post of Nursing Sister.

Learned counsel for the appellant submits that the respondent-plaintiff claims that she belongs to backward class which can be believed from the

fact that the name of the respondent-plaintiff has been recorded as “Asha Narang” which shows that the respondent-plaintiff does not belong to the backward class of Sunar, benefit of which was being claimed.

3. From the facts/evidence which has come on record, the respondent-plaintiff was claiming the benefit of backward class in promotion on the basis of the backward class certificate issued by the City Magistrate, Rohtak dated 28.06.1989. In the said certificate, it has already come on record as an evidence that she is a backward class candidate. The said certificate has never been withdrawn or challenged in any manner. That being the facts, which have been recorded by the Courts below, the appellant was under obligation to grant the respondent-plaintiff the benefit of promotion in case the post was being filled up on the basis of reservation from a candidate belonging to the reserved category.

4. Concededly, the said benefit was not given to the respondent-plaintiff only on the ground that prior to the year 1989, the respondent-plaintiff never claimed the benefit of reservation. The findings recorded by the Courts below are perfectly valid to the effect that a candidate can claim the benefit of reservation as and when he/she wants. It is not in dispute that the respondent-plaintiff had a valid backward class certificate issued by the competent authority. Once, the said document was presented, the respondent-plaintiff was entitled for the benefit which benefit has rightly been allowed by the Court below in favour of the respondent-plaintiff.

5. The second argument which has been raised by the learned counsel for the appellant is that name of the respondent-plaintiff Smt. Asha Narang which is Arora by caste and hence, she cannot claim the benefit of reservation being a backward class.

6. It may be noticed that the backward class certificate issued to the respondent-plaintiff by the City Magistrate Rohtak dated 28.06.1989 has never been withdrawn or challenged in any manner. Once on the basis of the document, the respondent-plaintiff had been given a certificate being a backward class employee, merely because of the name, the said certificate cannot be put into dispute by the appellant.

7. No other argument was raised.

8. Keeping in view the above, as no perversity in the findings recorded by the Court below have been pointed out by the learned counsel for the appellant while arguing the present appeal, no ground is made out for any interference by this Court.

9. Dismissed.

January 19, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No