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

RSA-1068-2001 (O&M)

Date of Decision: 19.12.2024

Joginder Kaur

.....Appellant

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sachin Kalia, Advocate, for
Mr. R.S.Bajaj, Advocate,
for the appellant.

Mr. Maninder Singh, Sr. DAG, Punjab,
for the respondents.

SUDEEPTI SHARMA J. (ORAL)

1. The challenge in the present appeal is to judgment and decree dated 12.09.2000 passed by the learned Additional District Judge, Patiala, whereby, the appeal filed by the respondents-State of Punjab, was allowed and the judgment and decree dated 25.04.1998 passed by the learned Civil Judge (Junior Division), Patiala, was set aside.

2. The brief facts of the case are that the appellant joined her services as Junior Scale Stenographer on 13.02.1984. As per her averment, according to seniority list issued by the department and notified on 01.01.1988, the name of the appellant stood at Serial No.4 and Ms. Barjinder Bedi was at Serial No.3, who was promoted as Senior Scale Stenographer

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and unfortunately expired. The post of Senior Scale Stenographer fell vacant and the appellant applied for the said post. Her application was duly recommended by the Senior Technical Officer, Industrial Development Centre-cum-Quality Marking Centre Engineering, Patiala, on 30.11.1989. The Director Industries rejected the application on 24.08.1990 on the ground that the appellant could not be promoted against the vacant post of Senior Scale Stenographer for the time being.

3. The appellant challenged the rejection order dated 24.08.1990 by way of filing a civil suit. The civil suit was decreed in her favour by the learned Civil Judge (Junior Division), Patiala, vide its judgment and decree dated 25.04.1998 and the respondents-State of Punjab was directed to promote the appellant to the post of Senior Scale Stenographer as per the seniority held by her.

4. Aggrieved against the said judgment and decree dated 25.04.1998, the State of Punjab filed an appeal, which was allowed by the learned Additional District Judge, Patiala, vide judgment and decree dated 12.09.2000 and the judgment and decree dated 25.04.1998 passed by the learned Civil Judge (Junior Division), Patiala, was set-aside. Hence, the present appeal.

5. Learned counsel for the appellant contends that the civil suit was decreed in favour of the appellant, vide judgment and decree dated 25.04.1998 and the appeal filed by the respondents-State of Punjab against the judgment and decree dated 25.04.1998, was allowed only on the ground



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that the civil suit was time barred. Therefore, he prays that the present appeal be allowed.

6. *Per contra*, learned State counsel submits that the learned First Appellate Court has rightly allowed the appeal filed by the respondents-State of Punjab and has rightly set aside the judgment and decree dated 25.04.1998 since the civil suit filed by the appellant was time barred. Further, he submits that the learned trial Court could not have directed the respondents-State to promote the appellant. Therefore, he prays that the present appeal be dismissed.

6. I have heard learned counsel for the parties and perused the whole record of this case.

7. A perusal of the record shows that the appellant challenged the order dated 24.08.1990, whereby, her request for promotion was rejected, by filing a civil suit in January, 1994 i.e. after a period of four years, which is time barred. The learned trial Court should have dismissed the civil suit on the ground of delay itself. Further, the appellant filed the civil suit against the order dated 24.08.1990, whereby, her request for promotion was rejected by stating that she could not be promoted against the vacant post of Senior Scale Stenographer for the time being. It was never the case of the appellant that any junior to the appellant was promoted against the said post of Senior Scale Stenographer. A perusal of the record further shows that as per Exhibit D-1, the post of Senior Scale Stenographer could be filled by the Heads of Departments and it was decided that only the Heads of Departments would



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be entitled to the post of Senior Scale Stenographer. It was further stated, as per Exhibit D-1, that in case any officer below the rank of Heads of Departments was having a Senior Scale Stenographer with him, the post of Senior Scale Stenographer so attached be down graded immediately. As per Exhibit D-2, the Senior Scale Stenographer, who had been promoted and adjusted temporarily out of their cadres were reverted back to their parent cadres as it was not in the public interest to keep them out of their cadre any more.

8. The learned First Appellate Court has rightly held that the Court could not compel the respondents-State to fill up any vacant post. As per record, no junior to the appellant was promoted as Senior Scale Stenographer.

9. In view of the above, the judgment and decree dated 12.09.2000 passed by the learned Additional District Judge, Patiala, does not require any interference and the same is affirmed. Accordingly, the present appeal is dismissed.

10. Decree sheet be drawn. Parties are left to bear their own costs.

11. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

19.12.2024

Virrendra

Whether speaking/non-speaking : Yes
Whether reportable : Yes/No