

CM-4228-C-2015;
CM-4229-C-2015 in/and
RSA-1522-2015

2024:PHHC:051249

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(208)

CM-4228-C-2015;
CM-4229-C-2015 in/and
RSA-1522-2015
Date of Decision : 16.04.2024

Amar Nath Mehta

...Appellant

Versus

Registrar Co-operative Societies and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rakesh Bakshi, Advocate for the appellant.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Mr. Pardeep Rajput, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

CM-4228-C-2015

Present application has been filed for seeking condonation of delay of 07 days in filing the appeal.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and delay of 07 days in filing the appeal is condoned.

CM-4229-C-2015

Present application has been filed for seeking condonation of delay of 43 days in re-filing the appeal.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and delay of 43 days in re-filing the appeal is condoned.

RSA-1522-2015

1. The present appeal has been filed challenging the judgment and decree of the trial court dated 04.05.2011 as well as judgment and decree of the lower appellate court dated 21.07.2014 by which the claim of the appellant-plaintiff for the grant of benefit of 2nd ACP from August, 2001 as well as challenge to the promotion of the private respondent Nos. 3 and 4 has been dismissed.

2. Learned counsel for the appellant-plaintiff argues that there was no impediment in the release of 2nd ACP on completion of 20 years of service on August, 2001.

3. On being asked to point out the perversity in the judgments, wherein, it has already been held by the respondents that the appellant-plaintiff did not fulfill the requisite criteria required for promotion to the next higher post and as the appellant-plaintiff was not eligible for promotion on the post in question, he could not have been given the benefit of ACP as well as the further promotion, learned counsel for the appellant-plaintiff has not been able to rebut the same on the basis of the evidence, which has already come on record.

4. A categorically finding has been recorded by the courts below that for promotion on the next higher post, 70% of the ACRs in the last ten years should have been good, whereas some of the ACRs of the appellant-plaintiff were below average and there were disciplinary proceedings pending against him. Further, 70% of the ACRs were not good so as to treat the appellant-plaintiff eligible for promotion on the next higher post.

5. The ACP is granted to an employee, who is fully eligible for promotion but could not get the said promotion due to non-availability of the vacancy in the promotional cadre. In case, an employee is not fit for promotion, he cannot claim the ACP merely on completion of 20 years of service.

6. In the present appeal without proving that the appellant-plaintiff had eligibility for promotion and concededly he had record, according to which he does not have 70% good report, the appellant-plaintiff cannot claim promotion. In the absence of any evidence brought on record to substantiate that his record was 70% good in the last ten years to secure promotion to the next cadre merely on completion of 20 years of service, the appellant-plaintiff cannot claim the benefit of 2nd ACP.

7. Further, as the appellant-plaintiff was not eligible for promotion on the post of Assistant Manager (Purchase), the private

respondents were promoted to the said post in preference to the appellant-plaintiff. As per the categorically finding recorded by the courts below, nothing has been brought on record, whether those employees, who were promoted in preference were junior to the appellant-plaintiff. Only their promotion orders have been challenged without bringing on record any evidence that they were juniors to the appellant-plaintiff or in what way, the prejudice has been caused to the appellant-plaintiff qua the promotion of the private respondents.

8. In the absence of any prejudice caused brought on record and proved by evidence, the judgment of the courts below cannot be treated as perverse to grant the relief to the appellant-plaintiff.

9. No other argument was raised.

10. No ground is made out for any interference by this Court in the judgments and decrees of the courts below.

11. Dismissed.

April 16th, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No