

RSA-3794-2017(O&M) and
RSA-3911-2017 (O&M)and
XOBS-26-C-2017

2024:PHHC:052662

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 217)

(1) RSA-3794-2017(O&M)
Date of Decision : 19.04.2024

Haryana State Agricultural Marketing Board
...Appellant

Versus

Manohar Lal
...Respondent

(2) RSA-3911-2017 (O&M)and
XOBS-26-C-2017

Haryana State Agricultural Marketing Board
...Appellant

Versus

Om Parkash Ola
...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Padamkant Dwivedi, Advocate with
Ms. Khushboo, Advocate for the appellant in both the RSAs.

Mr. Sanjiv Gupta, Advocate with
Mr. Naveen, Advocate
for the respondent in RSA No. 3794-2017.

Mr. N.C. Kinra, Advocate for the respondent in
RSA-3911-2017 and for Cross-Objectors in RSA-3911-2017.

Harsimran Singh Sethi J. (Oral)

1. In the present bunch of appeal, the challenge is to the
judgment and decree of the lower appellate court dated 24.08.2016 in
RSA No. 3794 of 2017 and the judgment and decree of the lower

appellate court dated 24.08.2016 in RSA No. 3911 of 2017 by which, the suits filed by the respondents-plaintiffs after their retirement, seeking promotions retrospectively on the ground that their juniors were promoted, have been allowed and the objections raised by the appellant-defendant that the suit was time barred, has been rejected.

2. For the sake of convenience, the facts are being taken from RSA-3794-2017, which are as under :-

3. The respondent-plaintiff, Manohar Lal was a regular employee of Haryana State Agricultural Marketing Board, Panchkula and retired from service on 31.05.2009 as an Assistant Secretary from Market Committee, Sirsa. After retirement, the respondent-plaintiff filed a civil suit claiming that as he joined the services of the Market Committee, Sirsa as a Mandi Supervisor on 08.01.1970, he was entitled for promotion as Accountant w.e.f. 04.01.1971 and thereafter, consequent promotion as Assistant Secretary w.e.f. 17.01.1991 and thereafter, as Secretary w.e.f. 30.06.1996 i.e. from the date when his junior, namely, Faquir Chand Gupta was promoted. The said civil suit was contested by the appellant-defendant on facts as well as on the ground of limitation that the same has been filed after the retirement and that too qua seeking promotion as an Accountant starting from the year 1971, which relates to 39 years prior to the actual date of filing of the civil suit.

4. The trial court keeping in view the facts and circumstances/ evidence, which had come on record, came to the conclusion that the suit is time barred and the suit filed by the respondent-plaintiff was dismissed vide judgment and decree dated 11.05.2012.

5. Feeling aggrieved against the said decision of the trial court, an appeal was preferred by the respondent-plaintiff, which came to be decided by the lower appellate court on 24.08.2016. The lower appellate court held that keeping in view the fact that certain candidates, who were juniors to the respondent-plaintiff were promoted from a particular date, the senior gets a right to claim promotion. The lower appellate court held that one Kali Ram Naidu and Faquir Chand Gupta, who were juniors to the respondent-plaintiff and they were granted promotion from a particular date, the same is liable to be extended even to the respondent-plaintiff as well and the ground of limitation was held in favour of the respondent-plaintiff on the ground that a senior employee cannot denied his legitimate claim for promotion, hence, the present regular second appeal.

6. Learned counsel for the appellant-defendant submits that not only the respondent-plaintiff but some other employees, namely, Rana Balbir Singh, Vinod Kumar Sharma and Jai Parkash Sharma also claimed the benefit of promotion after their retirement. Learned counsel further submits that similar suit filed by Vinod Kumar Sharma and Jai Parkash

Sharma, their claims were dismissed by the courts below being time barred, whereas the suit of Rana Balbir Singh was allowed, as done in the case of the present respondent-plaintiff.

7. Learned counsel for the appellant-defendant submits that in an appeal filed being RSA No. 3012 of 2012 qua the relief granted in favour of Rana Balbir Singh, the Co-ordinate Bench of this Court by a detailed order has held that the claim of promotion after retirement is time barred by placing reliance upon the judgment of the Hon'ble Supreme Court of India in *P.S. Sadasivaswamy Vs. State of Tamil Nadu*, AIR 1975 SC 2271, wherein it has been held that the matters of promotions and seniority should only be agitated within a period of six months or at the most one year from the date of accrual of cause of action, hence, the claim of promotion raised after retirement is not admissible and will be treated as time barred. In the said regular second appeal also, the promotion was being sought on the basis of the promotion given to junior employee, namely, Kali Ram Naidu only. Learned counsel for the appellant-defendant submits that the judgment and decree in the case of Vinod Kumar Sharma as well as Jai Parkash Sharma vide which similar claim was rejected, was upheld by dismissing the RSA No. 2814 of 2019 as well as RSA No. 538 of 2019.

8. Learned counsel for the respondent-plaintiff, on the other hand, submits that a similar claim of one Banwari Lal has been allowed

by the Co-ordinate Bench of this Court while passing order in RSA No. 183 of 2013, decided on 10.12.2015 and the SLP against the said order was also dismissed, hence, the judgment and decree of the lower appellate court is liable to be upheld.

9. I have heard learned counsel for the parties and have gone through the record with their able assistance.

10. It may be noticed that in the present RSAs, the suits were filed by the respondent-plaintiff after the retirement and that too claiming promotion with retrospective effect on the ground that one Kali Ram Naidu and Faquir Chand Gupta were granted promotions in preference to him, which promotions were given in the year 1971. The consequent promotions were also sought. The issue in hand has already been decided by the Co-ordinate Bench while passing order in RSA No. 3012 of 2012 titled as ***Haryana State Agricultural Marketing Board Vs. Rana Balbir Singh***, by placing reliance upon the judgment of the Hon'ble Supreme Court of India in ***P.S. Sadasivaswamy(supra)***, wherein, it was held that the suit is time barred. The findings recorded by the lower appellate courts qua the maintainability of the suit filed by the respondent-plaintiff, in the facts and circumstances of the case which have been noticed herein-before, is perverse to the settled principle of law settled by this Court in ***Rana Balbir Singh (supra)***.

11. Learned counsel for the respondents-plaintiffs have not been able to distinguish how, the claim of the respondents-plaintiffs, which is also based on the promotion of Kali Ram Naidu as well as Faquir Chand Gupta, is distinguishable with the one in ***Rana Balbir Singh (supra)***. Once, the claim of the respondent-plaintiff for retrospective promotion is akin to one raised by ***Rana Balbir Singh*** and the said claim has already been held to be time barred keeping in view the judgment passed in RSA No. 3012 of 2012, no benefit of retrospective promotion can be given to the respondent-plaintiff.

12. With regard to the reliance being placed by the respondents-plaintiffs on the judgment in RSA No. 183 of 2013 in ***Banwari Lal (supra)***, it may be noticed that the said order was passed in the year 2015 whereas the other orders of the similarly situated employees were passed on a much later date by the Co-ordinate Bench of this Court taking a contrary view. A Co-ordinate Bench in case of ***Vinod Kumar Sharma (supra)***, held that the order passed by the courts below declining the claim of Vinod Kumar Sharma, which was also based on the same facts as being claimed by the respondents-plaintiffs, was time barred and said judgment was passed in the year 2016. Once, three different benches of this Court in the similar facts have already held that no claim can be made for promotion after retirement, no benefit of the judgment in ***Banwari Lal (supra)***, can be given to the respondents-plaintiffs.

13. Keeping in view the above, the findings recorded by the courts below that the suits was within limitation with regard to seeking of promotion from the year 1971, which suits were filed after the retirement in the year 2010, the findings recorded by the lower appellate courts are perverse to the findings recorded by the Co-ordinate Bench in ***Rana Balbir Singh (supra)***.

14. The judgment and decree of the lower appellate court dated 24.08.2016 in RSA No. 3794 of 2017 as well as judgment and decree of the lower appellate court dated 24.08.2016 in RSA No. 3911 of 2017 are set-aside and the judgment and decree dated 11.05.2012 of the trial court in RSA No. 3794 of 2017 as well as judgment and decree dated 29.10.2013 of the trial court in RSA No. 3911 of 2017 are revived and the suits filed by the respondents-plaintiffs are dismissed.

15. The cross objections filed by the respondent-plaintiff in RSA No. 3911 of 2017 are also dismissed for the reasons stated here-in-before.

Pending miscellaneous application, if any, also stands disposed of.

A photocopy of this order be placed on the file of connected cases.

April 19th, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No