



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-5047-2015 (O&M)
Reserved on: 26.03.2025
Date of decision: 01.05.2025

PUNJAB SMALL IND. & EXPORT CORPN. LTD.

..Petitioner

Versus

DARBARA SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjeev Sharma, Advocate
for the petitioner.

Mr. S.K. Sharma, Advocate
for respondent.

ANIL KSHETARPAL, J.

1. The judgment debtor-employer assails the correctness of order passed on 15.05.2015, while rejecting an application filed for dismissal of execution petition.
2. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.
3. The respondent (Sh. Darbara Singh-decree holder) filed suit for declaration with consequential relief of mandatory injunction, which was decreed on 27.11.2007 while issuing the following directions:-

“It is ordered that the suit of the plaintiff is hereby succeeds and is decreed by holding that the action of the defendant in denying the promotion to the plaintiff to the post of Deputy General Manager and further to the post of Senior Deputy Manager by promoting the Junior is unlawful, unconstitutional, arbitrary and violative of Rules and Regulations and therefore, plaintiff is entitled to the post of Deputy General Manager from the date when his juniors were promoted. Further the defendant is directed to grant to the plaintiff the said promotions with



all consequential benefits such as arrears of pay and allowances, seniority and all other service benefits admissible under the service rules.”

4. The appeal filed by the petitioner was dismissed. It has been disclosed by the judgment debtor that decree holder was promoted as Deputy General Manager on 16.03.2011 with effect from 29.02.2000 i.e. the date from which his junior Sh. Nand Lal Rajan was promoted. However, keeping in view his service record, which was not meeting the benchmark, decree holder was promoted as Senior Deputy General Manager with effect from 31.03.2010 because his Annual Confidential Report (in short ‘ACR’) for the year 1999-2000 was ‘Below Average’ and ACR for the year 2000-2001 was ‘Average’. Subsequently, Sh. Nand Lal Rajan was reverted to the post of Manager w.e.f. 29.02.2000 vide order dated 16.03.2011, whereas, respondent was notionally promoted as Senior Deputy General Manager w.e.f. 31.03.2010. A fresh order was passed on 31.01.2012 granting decree holder all consequential benefits and pay fixation. His pay has also been refixed vide order dated 09.04.2012 with effect from 29.02.2000 and as Senior Deputy General Manager with effect from 31.03.2010. He has also been granted Assured Career Progression benefits on completion of 4 years in the cadre of Deputy General Manager with effect from 01.11.2006 and on completion of 9 years with effect from 01.03.2009. But Assured career progression benefits drawn by decree holder as Manager on 17.03.2000 and 01.01.2006 on completion of 8 years and 14 years was withdrawn. Upon refixation of pay, arrears have also been paid.

5. The judgment debtor’s application for dismissal of the objection petition has been dismissed by the Executing Court. While interpreting that the Court has directed that decree holder should be promoted as Senior



Deputy General Manager, hence, the judgment debtor cannot take into consideration 'ACR' for the year 1999-2000 and 2000-2001.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

7. On the one hand, learned counsel for the judgment debtor has claimed that directions issued by the Court while decreeing the suit would amount to right of consideration for promotion. He submitted that if the promotion is based upon merit then the Court can pass decree directing the employer to consider the employees case for promotion. He relies upon the judgment passed by the Supreme Court in Deputy Inspector General of Police and another Vs. R. Mookan, 1998 SCC (L&S) 1753, State of Punjab Vs. SI Saroop Singh, 1992 (2) SCT 539.

8. Per contra, learned counsel for respondent submits that decree holder is being harassed and despite the orders passed by the Court, he has not been considered for promotion at an appropriate time.

9. This Court has considered the submissions of learned counsel for the parties.

10. The Supreme Court in R. Mookan's case (supra) has held that the Court or the Tribunal should only direct consideration of the case of the employee for promotion and it is not appropriate for the Court to issue direction to hold him fit for promotion and to promote him. Similar view was taken by the High Court in SI Saroop Singh's case (supra). The Court while passing the decree has not held that the decree holder's adverse 'ACR' should be ignored or it is illegal and hence set aside. Thus, the direction issued by the Court has to be read as direction for considering decree holder's case for promotion as Senior Deputy Manager.



11. As already noticed, the decree holder has been promoted as Senior Deputy General Manager w.e.f. 31.03.2010 and he has also been paid all consequential benefits. If the decree holder is aggrieved of the date from which he has been promoted as Senior Deputy General Manager, his remedy is to file fresh proceedings.

12. At this stage, the execution petition is required to be closed.

13. The Executing Court has also erred in observing that previous objection petition filed by judgment debtor was dismissed on 05.01.2013.

14. It may be noted here that such order passed by the Executing Court is an interlocutory order and would not operate as the *res judicata*. Moreover, after the order was passed in the year 2013, the pay of the decree holder has been refixed and he has been paid consequential benefits including arrears of pay, Assured Career Progression benefits on completion of 4 and 9 years of service.

15. Consequently, the revision petition is allowed. The impugned order is set aside.

16. The Executing Court is directed to close the execution petition as satisfied.

17. All the pending miscellaneous applications, if any, are also disposed of.

01st May, 2025

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No