



RSA-1546 of 2001

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

RSA-1546 of 2001 (O&M)

Reserved on:22.09.2025

Date of pronouncement : 26.09.2025

**THE STATE THROUGH SECRETARY, GOVT. OF HARYANA AND
ANOTHER**

..... Appellants

VERSUS

KARTAR SINGH

..... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present :- Mr. Gautam Kaile, DAG, Haryana
for the appellants.

Mr. Mohit Rathee, Advocate
for the respondent.

DEEPINDER SINGH NALWA, J.

1. The present appeal has been filed against the judgment and decree dated 20.07.2000 passed by the learned lower Appellate Court vide which, the judgment and decree passed by the learned trial Court was set aside and the respondent-plaintiff was held entitled to be considered for promotion with all consequential benefits with effect from the date persons immediately junior to him were promoted.

2. Brief facts of the case are that the respondent-plaintiff was appointed on the post of Social Studies Master on 20.07.1968. He was

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promoted on the post of Lecturer on 08.02.1990, in the pay scale of Rs.2000-3200. As per seniority list of Social Studies Master dated 01.01.1979, the name of respondent-plaintiff was reflected at serial No.2034. Promotions on the post of Head Master were made on the basis of the above said seniority list. However, the case of respondent-plaintiff was not considered for promotion when promotions were made till serial No.2500 as per the seniority list. Thereafter, further promotions were again made till serial No.2998 in the seniority list. The case of the respondent-plaintiff was again not considered for promotion to the post of Head Master despite his name figured at serial No.2034 in the seniority list.

3. It was only thereafter, vide order dated 29.08.1996, the respondent-plaintiff was considered for promotion on the post of Head Master with effect from 11.09.1996. Since the case of the respondent-plaintiff was not considered earlier when his juniors were promoted, he was placed below them in the seniority list of Head Masters, despite being senior in the cadre of Social Studies Master.

4. Aggrieved against the above said action of the appellants-defendants, the respondent-plaintiff filed a suit for declaration to an extent that he be considered for promotion to the post of Head Master w.e.f the date his juniors were promoted on the above said post.

5. The appellants-defendants duly filed written statement in the above said suit contending that the respondent-plaintiff was serving on the post of Lecturer, which carried a higher pay scale of Rs.2000-3200, whereas the post of Head Master carried a lower pay scale of Rs.1640-2900. In



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these circumstances granting promotion to the respondent-plaintiff to the post of Head Master would not amount to a promotion in substance, but rather would amount to demotion. As such, the action of appellants-defendants in not considering the case of respondent-plaintiff for promotion on the post of Head Master from the date his juniors were promoted was legal and valid.

6. From the pleadings of the parties, learned trial Court framed the following issues:-

“1. Whether the plaintiff is entitled to be promoted to the post of Head Master as averred? OPP

2.If issue No.1 is proved, whether the plaintiff is entitled to the consequential relief of promotion as averred? OPP

3.Whether the suit of the plaintiff is within time. OPD

4.Whether the plaintiff has no cause of action?OPD

5.Relief.”

7. The learned trial Court decided issues No.1 to 4 in favour of the respondent-plaintiff. However, issue No.5 was decided against the respondent-plaintiff and the suit filed by the respondent-plaintiff was dismissed.

8. A perusal of the judgment and decree dated 24.05.1999 passed by the learned trial Court would show that the learned trial Court has held that the respondent-plaintiff was entitled to be considered for promotion to the post of Head Master w.e.f the date his immediate juniors were promoted. However, taking into consideration the fact that no notice was served upon the appellants-defendants under Section 80 of the Civil Procedure Code, 1908 (for short referred to as 'CPC'), no relief could have been granted to



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respondent-plaintiff.

9. The learned trial Court further held that the appellants-defendants failed to adduce any evidence to establish that the posts of Lecturer and Master were separate cadres, or that the respondent-plaintiff, while discharging duties as a Lecturer, was ineligible for promotion to the post of Head Master.

10. Aggrieved against the judgment and decree dated 24.05.1999 passed by the learned trial Court, the respondent-plaintiff filed an appeal before the learned lower Appellate Court. The said appeal was allowed vide judgment and decree dated 20.07.2000, whereby the judgment and decree passed by the learned trial Court was set aside and the respondent-plaintiff was held entitled to be considered for promotion, along with all consequential benefits, with effect from the date immediate juniors to the respondent-plaintiff were promoted on the post of Head Master.

11. A perusal of the judgment and decree dated 20.07.2000 passed by the learned lower Appellate Court would show that it was held therein that there had been due compliance of Section 80 of CPC, as notice had been duly served upon the appellants-defendants. It was further held that the learned trial Court had erred in dismissing the respondent-plaintiff suit on the plea which had neither been pleaded nor had been raised during the arguments. The learned lower Appellate Court also held that adopting a hyper technical view of the provisions of Sections 79 and 80 CPC had occasioned a complete miscarriage of justice.

12. Aggrieved against the judgment and decree dated 20.07.2000

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passed by the lower Appellate Court, the appellants-defendants has filed the present appeal. The questions of law for consideration before this Court is:

1. Whether respondent-plaintiff was entitled to be considered for promotion on the post of Head Master with effect from the date juniors were promoted on the above said post.

13. The only contention raised by the learned counsel appearing on behalf of the appellants-defendants is that the action of appellants-defendants in not considering the case of the respondent-plaintiff for promotion to the post of Head Master was for the reason that as the respondent-plaintiff was working as a Lecturer in a higher pay scale i.e. Rs.2000-3200 while the post of Head Master carried a lower pay scale i.e. Rs.1640-2900 as such, the action of appellants-defendants in not considering the case of respondent-plaintiff for promotion on the post of Headmaster was legal and valid.

14. On the other hand, learned counsel appearing on behalf of respondent-plaintiff submits that in fact the action of appellants-defendants in not considering the case of respondent-plaintiff was totally against the law. As the respondent-plaintiff was eligible for promotion on the post of Head Master as per the rules as such, his case had to be considered for promotion on the post of Head master w.e.f the date his immediate juniors were promoted on the above said post. He submits that in fact there is no infirmity or illegality in the judgment and decree dated 20.07.2000 passed by the learned lower Appellate Court.

15. After hearing the learned counsel for the parties at some length

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and going through the records of the case, a perusal of the facts of the present case would show that the respondent-plaintiff was appointed on the post of Social Studies Master on 20.07.1968. He was further promoted on the post of Lecturer on 08.02.1990, in the pay scale of Rs.2000-3200. It is admitted fact that the name of the respondent-plaintiff was at serial No.2034 in the seniority list of Social Studies Masters. It is also admitted fact that the persons who were juniors to the respondent-plaintiff in the seniority list of Social Studies Masters were considered for promotion on the post of Head Master before the case of respondent-plaintiff was considered for promotion on the post of Head Master.

16. With regard to the contention raised by the counsel appearing on behalf of the appellants-defendants that as the respondent-plaintiff was working on the post of Lecturer which was in a higher pay scale and if, respondent-plaintiff was considered for promotion on the post of Head Master which carried a lower pay scale with effect from the date his immediate juniors were promoted, it would amount to reversion/demotion. The above said contention is devoid of merit for the simple reason that if the respondent-plaintiff who was working on the post of Lecturer could not be promoted on the post of Head Master being in higher pay scale as it would amount to demotion/reversion than there was no reason for the appellants-defendants to consider his case vide order dated 29.08.1996 for promotion to the post of Head Master w.e.f.11.09.1996.

17. It is a well settled law that consideration for promotion is a condition of service. No rules have been brought to the notice of this Court



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to indicate that Lecturers, by virtue of the post carrying a higher pay scale are precluded from being considered for promotion on the post of Head Master.

18. Once the respondent-plaintiff was promoted on the post of Head Master vide order dated 29.08.1996 w.e.f.11.09.1996, there is no reason for not considering the case of respondent-plaintiff for promotion on the post of Head Master with effect from the date his juniors were promoted on the above said post. Even if, for the sake of arguments, it is presumed that the post of Lecturer carries a higher pay scale than the post of Head Master even than, if the Lecturers are eligible for promotion to the post of Head Master, the case of Lecturers has to be considered for promotion to the post of Head Master. In case, the Lecturers are promoted, their pay can always be appropriately stepped up.

19. Taking into consideration the facts of the case and the evidence led by the parties, this Court does not find any infirmity or illegality in the judgment and decree dated 20.07.2000 passed by the learned lower Appellate Court.

20. Accordingly, the present appeal is dismissed.

21. Pending application(s), if any, also stand(s) disposed of accordingly.

(DEEPINDER SINGH NALWA)
JUDGE

26.09.2025

Rimpal

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No