



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

RSA-3431-2001(O&M)

RESERVED ON : 21.08.2025

PRONOUNCED ON : 28.08.2025

Vijay Kumar

....Appellant

Versus

Haryana State Electricity Board and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH
NALWA**

Present: Mr. Ishnoor Singh, Advocate for
Mr. Vikram Singh, Advocate for the appellant/plaintiff.

Ms. Kushaldeep Kaur, Advocate and
Ms. Sharvi Dadhwal, Advocate for respondents No.1 &
2/Department

DEEPINDER SINGH NALWA, J.

1. The present appeal has been filed against the judgment and decree dated 10.04.2001 passed by learned Additional District Judge, Karnal (hereinafter to be referred as 'Lower Appellate Court'), vide which the judgment and decree dated 17.07.2000 passed by learned Additional Civil Judge (Senior Division), Karnal (hereinafter to be referred as 'trial Court'), was set aside.

2. The brief facts of the case are that appellant/plaintiff was appointed as workcharge/T-mate on 17.01.1978. He was promoted as Shift Attendant w.e.f. 18.10.1980 on adhoc basis. The service of the appellant/plaintiff was brought on regular establishment as Shift Attendant w.e.f. 26.05.1982, vide order dated 30.09.1988.



Appellant's/plaintiff's name was shown at Serial No.23 in the seniority list of Shift Attendant issued on 22.06.1985. However, subsequently the seniority of the appellant/plaintiff was changed from Serial No.23 to 52-A vide order dated 06.11.1986. Aggrieved against the abovesaid change in the seniority list, appellant/plaintiff filed a civil suit bearing Civil Suit No.681 of 1988 challenging the abovesaid seniority list. The abovesaid civil suit was decreed in favour of the appellant/plaintiff vide judgment and decree dated 29.03.1994 passed by the learned trial Court, and the order dated 06.11.1986 was declared as illegal. It was held that the respondent/defendant shall be at liberty to effect change in the seniority list after holding enquiry in regard to the date of appointment of appellant/plaintiff as workcharge/T-mate and giving reasonable opportunity of being heard. That during the pendency of the abovesaid suit, the respondent/department issued a seniority list of Shift Attendants on 07.11.1989 and name of the appellant/plaintiff was shown at serial No.25 in the seniority list. As per the appellant/plaintiff, his name should have been shown at serial No.13-A i.e. above the name of Rajbir Singh and below the name of Sukhbir Singh. In view of the judgment dated 29.03.1994 passed by learned trial Court, one Shri M.P.Seth, Executive Engineer, Sub Urban Division, Karnal was appointed as an Enquiry Officer to enquire into the date of appointment of appellant/plaintiff. He submitted his report dated 05.07.1994 wherein it was held that appellant/plaintiff was working as daily wager w.e.f. 01.01.1978 and workcharge/T-Mate w.e.f. 17.01.1978. On the basis of abovesaid report, the name of appellant/plaintiff was shown at



Serial No.47-A in the seniority list of Shift Attendant vide order dated 26.08.1994 passed by respondent/defendant No.2.

3. Aggrieved against abovesaid order dated 26.08.1994, the appellant/plaintiff filed a suit for declaration and for mandatory injunction. It was pleaded that in fact the abovesaid order dated 26.08.1994 assigning seniority to the appellant/plaintiff at Serial No.47-A was not correct. It was further pleaded that the seniority of Sub Station Staff and Field staff has been mixed up at the time of passing of the impugned order. It was pleaded that the persons who were junior to plaintiff have been promoted as Assistant Sub Station Attendant and Sub Station Attendant earlier to the appellant/plaintiff. The seniority is to be reckoned from the date of regular appointment, as the appellant/plaintiff was brought on regular establishment as Shift Attendant w.e.f. 26.05.1982. He should be ranked senior to Shift Attendant who were brought on regular establishment after the regularization of service of appellant/plaintiff. It was further pleaded that various representations were submitted to the respondent/Department but no action was taken on the said representations.

4. Respondents No.1 and 2 filed their joint written statement to the abovesaid civil suit filed by the appellant/plaintiff. It is the case of the respondent/department that the appellant/plaintiff was appointed as workcharge/T-mate w.e.f. 01.01.1978 and subsequently was appointed as Shift Attendant w.e.f. 18.10.1980 on adhoc basis and was brought on regular establishment w.e.f. 26.05.1982. It was averred



therein that seniority list was wrongly prepared. Taking into consideration the length of service of the appellant/plaintiff and rectifying the mistake, appellant/plaintiff was assigned correct seniority position in the seniority list of Shift Attendant. As per the judgment passed by learned trial Court dated 29.03.1994, the respondent/department held enquiry in regard to the date of appointment of the appellant/plaintiff and taking into consideration the date of appointment, the appellant/plaintiff was assigned seniority at Serial No.47-A vide order dated 26.08.1994 and as such, the seniority of appellant/plaintiff was rightly fixed. It was further averred that Sukhbir Singh and Rajbir Singh shown at serial No.12 and 14 in the seniority list were senior to appellant/plaintiff as on 31.12.1980.

5. From the pleading of the parties, following issues were framed by the learned trial Court :-

1. Whether the order dated 26.8.1994 passed by Circle, the Superintending Engineer, HSEB, Karnal is OP illegal, arbitrary, against the rules of natural Justice and without following procedure laid down?OPP.
- 2) If issue No.1 is proved, whether the plaintiff is entitled to mandatory injunction directing defendant No.2 to fix the seniority of the plaintiff at serial No. 23 as shown in seniority list then at dated 22.06.1985 and then at serial No.13-A i.e. above the name of Rajbir and below the name of Sukhbir Singh shown at serial No.14 and 12



respectively in the seniority list dated 07.11.1989 with all the consequential benefits? OPP.

3) Whether the suit is not maintainable in the present form? OPD.

4) Whether civil court has got no jurisdiction to try and entertain the present suit?OP

5) Whether the suit is barred by principle of resjudicata? OPD.

6) Whether the suit is bad for non-joinder of necessary parties? OPD.

7) Relief.

6. The learned trial Court vide judgment and decree dated 17.07.2000, decreed the suit in favour of the appellant/plaintiff. It was held therein that the seniority fixed by the respondent/department vide order dated 26.08.1994 in the case of appellant/plaintiff was not rightly fixed. A direction was given to the respondent/department to re-fix the seniority of the appellant/plaintiff after taking into consideration the length of service of the appellant/plaintiff as Shift Attendant, till then the order dated 29.03.1994 passed by the learned trial Court, fixing the seniority of the appellant/plaintiff would operate. A perusal of the judgment and decree dated 17.07.2000 passed by the learned trial Court would show that the learned trial Court has held that while fixing the seniority of the appellant/plaintiff, length of service as workcharge/T-mate has been taken into consideration vis-a-vis the length of service of Raj Kumar and Jai Bhagwan. It was also held that length of service of



appellant/plaintiff as Shift Attendant was not taken into consideration for the purpose of fixation of seniority.

7. Aggrieved against the judgment and decree dated 17.07.2000 passed by the learned trial Court, the respondent/department filed an appeal challenging the abovesaid judgment and decree. The aforesaid appeal came up for consideration before the learned Lower Appellate Court on 10.04.2001. On that day, the learned Lower Appellate Court was pleased to accept the appeal filed by the respondent/department and the impugned judgment and decree dated 17.07.2000 passed by the learned trial Court was set aside. It was held by the learned Lower Appellate Court that there was no infirmity in regard to fixation of seniority of appellant/plaintiff. A perusal of the judgment dated 10.04.2001 passed by the learned Lower Appellate Court would show that learned Lower Appellate Court has held that the name of appellant/plaintiff was shown at Serial No.23 in the seniority list of Shift Attendant taking into consideration his date of appointment as workcharge/T-mate as 01.01.1978 instead of 17.01.1978. Subsequently, when it was found that the appellant/plaintiff had joined the service on the post of workcharge/T-mate w.e.f. 17.01.1978, the mistake was rectified and seniority of the appellant/plaintiff was re-fixed on the post of Shift Attendant. It was also held that the appellant/plaintiff cannot take advantage of the mistake committed by the respondent/Department on the basis of which the appellant/plaintiff was regularized on the post of Shift Attendant and was shown senior in the seniority list of Shift Attendant at Serial



No.23. It was also held that appellant/plaintiff was not entitled to be considered as senior to those who have joined regular service as workcharge/T-mate between 01.01.1978 and 17.01.1978. Accordingly, it was held that the appellant/plaintiff has been rightly shown at Serial No.47-A in the seniority list.

8. Aggrieved against the judgment dated 10.04.2001 passed by the learned Lower Appellate Court, the appellant/plaintiff has filed the present appeal.

9. Learned counsel for the appellant submits that in fact the judgment passed by the learned Lower Appellate Court has erred in giving a finding that the seniority list issued by the respondent/department was legal and valid. It is submitted that one Rajbir Singh who was appointed after the appointment of appellant/plaintiff on the post of Shift Attendant has been shown senior to the appellant and, therefore, the seniority list is not correct. As such, the aforesaid finding given by the learned Lower Appellate Court is liable to be set aside.

10. Learned counsel for the respondent/Department submits that, in fact, Rajbir Singh was appointed earlier on the post of workcharge/T-mate and had more length of service than the appellant/plaintiff as on 31.12.1980, as such, Sh. Rajbir Singh was rightly shown senior in the seniority list. It is further submitted by learned counsel that by mistake, the date of appointment of appellant/plaintiff on the post of workcharge/T-mate was taken as 01.01.1978 instead of 17.01.1978. The above mistake was rectified by



the respondent/department and seniority was accordingly fixed. It is also contended that no person junior to the appellant/plaintiff was promoted before the appellant/plaintiff.

11. I have heard learned counsel for the parties and perused the paper-book. The issue involved in the present appeal is in regard to fixation of seniority of the appellant/plaintiff on the post of Shift Attendant.

12. A perusal of the facts of the case would show that the appellant/plaintiff was shown at Serial No.23 taking into consideration the date of appointment of appellant/plaintiff on the post of workcharge/T-mate as 01.01.1978 instead of 17.01.1978 and on the basis of which, appellant/plaintiff was regularized on the post of Shift Attendant. It is not disputed by learned counsel for the appellant that the date of appointment of appellant on the post of workcharge/T-mate was 17.01.1978 and not 01.01.1978. The abovesaid mistake was subsequently rectified by the department and by taking into consideration the date of appointment of appellant/plaintiff as 17.01.1978 on the post of workcharge/T-mate, the seniority of appellant/plaintiff was refixed in the seniority list of Shift Attendant. It is well settled law that authorities have the power to correct bona fide mistake in seniority list. An employee does not have a vested right to a seniority position that was granted due to mistake. It is also not the case of the learned counsel for the appellant that any person who was junior to the appellant/plaintiff has been shown senior in the seniority list taking into consideration the date of appointment of appellant/plaintiff



as 17.01.1978 on the post of workcharge/T-mate. It is not disputed by the appellant/plaintiff that Sh. Rajbir Singh had more length of service than the appellant/plaintiff on the post of workcharge/T-mate. As the appellant/plaintiff was appointed as workcharge/T-mate on 17.01.1978, as such, the abovesaid date has rightly been taken into consideration for the purpose of fixation of seniority as Shift Attendant. Taking into consideration the date of appointment of appellant/plaintiff on the post of workcharge/T-mate as 17.01.1978, there is no infirmity in the seniority list issued by the respondent/department while fixing the seniority of the appellant/plaintiff at Serial No.47-A in the seniority list of Shift Attendant.

13. Taking into consideration the above facts of the case, this Court finds no infirmity or illegality in the judgment dated 10.04.2001 passed by the learned Lower Appellate Court.

14. Accordingly, the present appeal is dismissed.

15. Pending application(s), if any, shall stand disposed of.

28.08.2025

d.gulati

**(DEEPINDER SINGH NALWA)
JUDGE**

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No