

**(2009) 04 P&H CK 0351**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** None

Rohtash

APPELLANT

Vs

Commandant General (Home  
Guard) and Director General,  
Civil Defence and Others

RESPONDENT

**Date of Decision:** April 2, 2009

**Hon'ble Judges:** Mahesh Grover, J

**Bench:** Single Bench

**Final Decision:** Dismissed

**Judgement**

Mahesh Grover, J.

The plea of the plaintiff-appellant in the instant suit was that the respondent Nos. 4 and 5 were wrongly promoted by counting period of ad hoc service rendered by them towards seniority. In this manner, they have been made senior to the appellant and were granted promotion to the post of Palatun Commander.

2. Following issues were in question before the Courts below:

1. Whether the defendants had promoted Gulshan and Ganga Jal who are juniors to the plaintiff without any experience on 26.3.1994? OPP.
2. Whether the letter dated 18.9.96 is illegal arbitrary and not binding upon the rights of the plaintiff in view of the reasons mentioned in the plaint?OPP.
3. Whether the plaintiff is entitled to the relief as claimed for?OPD.
4. Whether the plaintiff has no locus standi?OPD.
5. Whether the suit is time barred?OPD.
6. Whether the plaintiff has no cause of action to file the present suit?OPD.
7. Whether the suit is bad for mis joinder and non joinder of necessary parties?OPD.

8. Relief.

3. Both the Courts have concluded against the appellant.

4. Learned Counsel for the appellant has assailed the said findings to contend that they are perverse as the service rendered by employees on ad hoc basis could not have been counted for the purposes of grant of seniority and consequent promotion for the simple reason that there is no finding that the initial appointment of such employees was in accordance with the rules or not.

5. After hearing learned counsel for the appellant and having perused the impugned judgment, I am of the considered opinion that there is no infirmity in the same. The promotion of the respondents was ordered in March, 1994 whereas the appellant preferred a suit in June, 1997 i.e. after a lapse of period of three years. The promotion was obviously to his knowledge. Even if promotion was assumed to be erroneous and respondents were not entitled to the benefit of ad hoc service to be counted towards seniority and consequent promotion yet because of the reason that the appellant himself by his conduct has permitted the promotion to stand for an inordinate long period of three years, in the considered opinion of this Court, a vested right has accrued to the respondents which could not be taken away by the belated suit of the appellant. Moreover, no substantial question of law has been shown to have arisen in the present appeal and the same being devoid of any merit is hereby dismissed.