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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1680-2023 (O&M)

Date of Decision: July 22, 2026

RANJIT KAUR @ RANJEET KAUR

.....Appellant

Versus

SANT SARWAN DASS CHARITABLE HOSPITAL AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Kartar Singh, Advocate for the appellant.

HARKESH MANUJA, J. (ORAL)

CM-5988-C-2023

This is an application seeking condonation of delay of 62 days in refiling the appeal.

Having heard learned counsel for the applicant-appellant and gone through the contents of the application which is supported by an affidavit, the same is allowed and delay of 62 days in refiling the appeal is hereby condoned.

RSA-1680-2023 (O&M)

1. By way of present appeal, challenge has been laid to the judgment and decree dated 11.03.2022 passed by the learned Additional District Judge (NRI Cases), Jalandhar (hereinafter referred to as '**the First Appellate Court**'), whereby the appeal preferred against the judgment and decree dated 16.11.2017 passed by the learned Civil Judge (Junior Division), Jalandhar (hereinafter referred to as '**the Trial**

Court) dismissing the suit for recovery of damages, came to be dismissed, thus affirming the decision of the learned Trial Court.

2. Brief facts necessary for adjudication of the present appeal are that the plaintiff, a qualified Lab Technician, served defendants Hospital for nearly seven years. A show cause notice dated 16.06.2014 alleging professional negligence in issuing incorrect laboratory reports was served upon her. The plaintiff submitted a reply dated 30.08.2014 denying the allegations and attributing the mistakes to other laboratory staff. However, finding her explanation unsatisfactory, the defendants dispensed with her services vide letter dated 03.09.2014. Alleging that her termination was arbitrary, malicious and had caused mental trauma, loss of reputation and damage to her professional career, she served a legal notice and thereafter, instituted a suit for recovery of damages. The defendants contested the suit, asserting that the plaintiff had repeatedly committed professional lapses, her conduct was unsatisfactory and her services were terminated after due procedure.

3. Upon consideration of the pleadings, the learned Trial Court framed the following issues:

1. *Whether plaintiff is entitled for relief of recovery of damages as prayed for? OPP*
2. *Whether the suit of the plaintiff is not maintainable? OPD*
3. *Whether plaintiff has concealed true and material facts from this Court? OPD*
4. *Whether the behavior of the plaintiff towards her colleagues in the hospital was not good? OPD*
5. *Relief.*

4. Upon appreciation of the evidence, the learned Trial Court vide judgment and decree dated 16.11.2017 dismissed the suit, holding that the plaintiff had neither challenged the termination order dated 03.09.2014 nor sought a declaration to that effect. It was further held that she failed to establish malice on the part of the defendants or any material substantiating loss of reputation so as to entitle her to damages.

5. Aggrieved thereof, the plaintiff preferred an appeal before the learned First Appellate Court, which, after re-appreciating the evidence, vide judgment and decree dated 11.03.2022 affirmed the findings of the learned Trial Court holding that the plaintiff had failed to establish illegality in her termination or entitlement to damages. The appeal was accordingly dismissed. Hence, the present Regular Second Appeal.

6. Learned counsel for the appellant contends that both the Courts below committed a patent illegality in dismissing the suit despite sufficient oral and documentary evidence establishing that her termination was arbitrary and malicious. It was argued that the findings are perverse, based on misreading of evidence, and that the Courts below erred in holding that a declaratory relief was a precondition for claiming damages.

7. I have heard learned counsel for the appellant and gone through the paper-book and the records of the case.

8. In the present case, as rightly observed by the Courts below, no declaration was ever prayed for by the plaintiff so as to lay challenge to the order dated 03.09.2014 whereby, her services were terminated. It is well settled that an order of termination, even where alleged to be

illegal, nonetheless has *de facto* operation and continues to bind the employee unless and until it is set aside or declared void by a competent Court; relief which presupposes the invalidity of such an order cannot be granted while the order itself remains unchallenged and subsisting. The Hon'ble Apex Court observed the said principle in ***State of Punjab v. Gurdev Singh, Ashok Kumar, (1991) 4 SCC 1***, the relevant extract of which is extracted hereunder:-

".....If an Act is void or ultra vires it is enough for the Court to declare it so and it collapses automatically. It need not be set aside. The aggrieved party can simply seek a declaration that it is void and not binding upon him. A declaration merely declares the existing state of affairs and does not 'quash' so as to produce a new state of affairs.

*6. But none the less the impugned dismissal order has at least a de facto operation unless and until it is declared to be void or nullity by a competent body or Court. In **Smith v. East Elloe Rural District Council, (1956) AC 736 at 769** Lord Redcliffe observed :*

"An order even if not made in good faith is still an act capable of legal consequences it bears no brand of invalidity upon its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders."

7. Apropos to this principle, Prof. Wade states: the principle must be equally true even where the 'brand of invalidity' is plainly visible: for there also the order can effectively be resisted in law only by obtaining the decision of the Court (see : Administrative Law 6th Ed. p. 352). Prof. Wade sums up these principles :

"The truth of the matter is that the Court will invalidate an order only if the right remedy is sought by the right person in the right proceedings and circumstances. The order may be hypothetically a nullity, but the Court may refuse to quash it because of the plaintiff's lack of standing, because he does not deserve a discretionary remedy, because he has waived his rights, or for some other legal reason. In any such case the 'void' order remains effective and is in reality valid. It follows that an

order may be void for one purpose and valid for another, and that it may be void against one person but valid against another." (Ibid p. 352)

8. It will be clear from these principles, the party aggrieved by the invalidity of the order has to approach the Court for relief of declaration that the order against him is inoperative and not binding upon him....."

The plaintiff, having confined her suit to a claim for damages without seeking any such declaration, cannot be permitted to obtain, indirectly, a relief that was never sought.

9. Furthermore, four instances were pointed out against the plaintiff vide letter/notice dated 16.06.2014 (Ex. P-1), alleging negligence in the preparation and delivery of laboratory reports pertaining to four different patients. However, vide reply dated 30.08.2014 (Ex. P-2), the plaintiff shifted the blame onto other lab technicians and officials of the hospital but led no evidence to support the same. The relevant portion of the judgment of the learned First Appellate Court is extracted hereunder for reference:-

"Apart from it, it is worth considering that vide letter/ notice (Ex.P1) plaintiff was told that gross negligence has been observed over the last few months, in the performance of her duty. It was stated therein that (i) she gave wrong blood report to a patient who was subsequently shifted to DMC Ludhiana; (ii) her department issued wrong S. Bilirubin Report of a new born patient repeatedly and test was not done as per requirements of test kit; (iii) she issued wrong platelets report of Pediatrics patient admitted in emergency and (iv) her department recently again issued wrong blood report to one of the Gynae patient namely Anuradha. She furnished her reply (Ex.P2) to the said show cause notice, whereby she gave explanation to the said charges to the effect that (i) blood group report of patient Mohinder Kaur was given wrongly by Mrs. Parveen, Lab technician; (ii) Bilirubin test was done by Sharandeep Jassi, Lab technician; (iii) wrong platelets count report of Pediatrics patient was given by Sandeep Singh, Lab technician and (iv) blood group report of patient Anuradha was given by Kamini Thakur, Lab technician. So, in all the four cases, she put the blame on other Lab technicians / officials

of the hospital. No evidence was however led by her to prove the same as it was for her to prove that charges levelled against her were wrong."

10. Moreover, as rightly observed by the learned First Appellate Court, no evidence was led by the plaintiff to substantiate the stand taken by her in reply Ex. P-2. No application was even made before the learned Courts below for summoning any such record from the respondent-hospital. Further, no reliable or cogent material forms part of the record so as to substantiate any loss of reputation caused to the plaintiff or her family. None of the witnesses examined on behalf of the plaintiff deposed to the factum of her reputation having been lowered in the eyes of any person in society either. In the absence of any evidence adduced to substantiate her claim, this Court finds no reason to differ from concurrent view taken by the learned Courts below.

11. Accordingly, finding no illegality or perversity with the concurrent findings of fact recorded by the learned Courts below, there being no misreading or misinterpretation of the pleadings and the material available on record, the present appeal being devoid of merits is thus, dismissed.

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

22.07.2026
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>