

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 3571 of 2002 (O&M)
Date of decision : October 20, 2015

Rajender and others

..... Appellants

Versus

The Food Corporation of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. D. S. Rawat, Advocate
for the appellant Nos. 1,8,15 & 16.

Mr. K. K. Gupta, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The appellant-plaintiff is in Regular Second Appeal against the judgment and decree of the lower appellate court whereby the suit for declaration and consequential relief for mandatory injunction on the premise that they were employed as contract labour by the defendants through their authorized contractors M/s Ram Nath Charanjit of Bhogpur Distt. Jullandhar from 20.8.1986 to 19.8.1988 and thereafter by M/s Ram Saran and Company of Gohana from August, 1988 to 13.10.1990 for the purpose of handling and transporting Food Grain bags at Food

Storage Depot, Rohtak has been decreed. In essence, the judgment and decree of the trial court has been reversed.

Learned counsel appearing on behalf of the appellants-plaintiffs submits that the trial court on the basis of oral and documentary evidence found that the procedure prescribed for absorbing the contractual labour by the contractor had not been followed. In essence, many of the workers working with the contractor have been absorbed, and their services have also been departmentalized.

He further submits that a direction was issued by the trial court by treating the plaintiffs as deemed to have been absorbed provided they are eligible. The Food Corporation of India challenged the aforementioned judgment and decree by filing an appeal, the appellate court, committed illegality and perversity, in setting aside the well reasoned judgment of the trial court by holding that the appellants-plaintiffs were not eligible for consideration.

He further submits that the appellate court had been swayed away in not noticing that due procedure had not been followed and thus, prays that the substantial questions of law arise for determination by this Court.

Learned counsel appearing on behalf of the respondent submits that the lower appellate court, being the last court of fact and law, after appreciation of oral and documentary evidence found that there is only the bald testimony of plaintiff, no other worker had deposed/appeared in the witness box. The witness of the Food Corporation of India produced the original agreement

dated 12.4.1991 Ex.D-1, Circular dated 11.6.1991 Ex. D-2, much less proceedings dated 31.8.1991 Ex.D-3. On going through the list supplied by the Contractor Ex.D-4 it was found that the name of the plaintiffs did not appear in the list, therefore, there is no illegality and perversity, much less no substantial question of law arise for determination by this Court.

I have heard learned counsel for the parties and appraised the paper book.

On perusal of the aforementioned contentions of the counsel for the parties, it is discernible that the Food Corporation of India had come out with a scheme to absorb the workers employed by the contractor. All the contractors attended the office of Food Corporation of India, a meeting was held, wherein the list of workers provided by the contractors was thoroughly examined. The workers figured in the list for oral examination were departmentalized as per requirement. The plaintiffs' name did not figure in the list of employees.

In my view, the grievance of the workers was not against the Food Corporation of India but against the contractor, therefore, cause of action, if any, could have been initiated against the contractor. The contractor was not arrayed as defendant being necessary and proper party. The lower appellate court found that neither the contractor furnished the list of plaintiffs nor there is any documentary evidence viz-a-viz their eligibility in the zone to be identified labours.

I do not intend to differ with the finding rendered by

the appellate court which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

October 20 , 2015
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