

342 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2415 of 1990
Date of Decision: 29.04.2015

Raj Kumar Vadera

....Appellant

Versus

Haryana State and others

..... Respondents

CORAM : HON'BLE MS.JUSTICE RITU BAHRI

Present: Mr. Pawan Kumar Mutneja, Advocate
for the appellant.

Mr. Siddharth Sawariya, DAG, Haryana.

RITU BAHRI, J. (Oral)

The appellant has come up in Regular Second Appeal against the judgment of the Lower Appellate Court dated 30.04.1990. The plaintiff had filed a suit for setting aside the order dated 08.01.1985 by which the plaintiff was retired from service. Plaintiff had been appointed in the Irrigation Department on 10.03.1950 as a Gauge Reader and thereafter he was promoted as Assistant Regulation Jamadar in Karnal Division on 22.08.1972. On 22.12.1982, he was suspended. The suspension order was based on an inquiry conducted by Mr. V.P.Behal, S.D.O. The plaintiff remained under suspension w.e.f. 22.12.1982 to 28.02.1983 and during this period he was paid suspension allowances. Thereafter, he was served with a charge sheet dated 10.02.1983. The Inquiry Officer after considering the facts, exonerated him of all the charges vide his report dated 05.05.1984 and 28.11.1984. Thereafter, vide order No.2/874/E he was directed to join in Gohana Sub Division on a Class IV post. There was no post of Assistant Regulation Jamadar at Gohana and an attempt was made to harass the plaintiff and thereafter finally vide order dated 08.01.1985, the plaintiff was

retired from service. The trial Court decree the suit and set aside the order of suspension dated 22.12.1982 and order dated 08.01.1985 as null and void and the order retiring the plaintiff dated 31.10.1984 as illegal.

Appeal filed by the State was allowed and in Paragraph 20, the Lower Appellate Court examined the facts of the case in detail. The plaintiff in his plaint has stated that after being retired on 08.01.1985. He was promoted as Assistant Regulation Jamadar on 22.08.1972. As per the Punjab Civil Services Rules Volume 1 Appendix II of Punjab Department Irrigation Branch Regulation, Jamadar Assistant falls under the category of Superior Work Charged Establishment. As per letter Ex.P-10 dated 07.06.1966 the post was considered in Class III Establishment.

Keeping in view the above facts that the post of Assistant Regulation Jamadar was a Class-III post on the date of retirement of a Class-III employee aged 58 years, the plaintiff was rightly retired from service in 1984 from the post of Assistant Regulation Jamadar. After going through the judgment passed by the Lower Appellate Court, specially keeping in view the averments made by the plaintiff in a plaint itself that after being appointed as a Gauge Reader in 1950, he was promoted to the post of Assistant Regulation Jamadar on 22.08.1972. This post as per letter Ex P-10 dated 07.06.1986 was considered in Class-III Establishment.

Hence the claim of the plaintiff that he should have been retired at the age of 60 years was ill-founded and the judgment of the lower Appellate Court is based on correct appreciation of facts and law. No substantial question of law found for consideration.

Dismissed.

April 29, 2015

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(RITU BAHRI)
JUDGE