

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

RSA No.403 of 1991
Date of decision : 09.07.2015

State of Haryana & another
Jug Lal

versus

...Appellants
...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Samarvir Singh, DAG, Haryana.

Mr. B.S.Mittal, Advocate for the respondent.

RITU BAHRI, J (Oral)

The State of Haryana has come up in appeal against the judgment of the trial Court dated 06.06.1990 and the lower appellate Court dated 12.09.1990, whereby the suit of the plaintiff has been decreed for declaration that the order dated 10.03.1981 vide which the resignation of the plaintiff was accepted is null and void.

The plaintiff was appointed as conductor with the Haryana Roadways on 06.10.1978 and he was discharged from his duties on 10.03.1981. The allegation against the plaintiff was that he had embezzled some amount. It is not disputed that no show cause notice was issued to the plaintiff and nor any inquiry was held. The plaintiff on 25.03.1981 deposited Rs.3,500/- in the office of Haryana Roadways and thereafter he was reinstated in service on 25.03.1981 after a gap of 15 days when he was discharged from service on 10.03.1981. The plaintiff filed the present suit claiming that he had been forced to file a resignation letter and in the absence of any regular inquiry Rs.3,500/-

had been got deposited from him towards penalty. He has joined service as conductor on 06.10.1978 and he be treated on duty from 10.03.1981 to 25.03.1981 be counted towards his regular service when he rejoined on 25.03.1981. The suit of the plaintiff was decreed by the trial Court on the ground that his reinstatement on 25.03.1981 was not through employment exchange and he was working previously with the department. In the absence of any departmental inquiry, the plaintiff was reinstated in service and the gap in service is liable to be condoned and the plaintiff was held entitled to be counted his service from 1978 to 1981 for all intents and purposes. The suit was not held to be barred by limitation as the continuity of service and it was a recurring loss for which the suit could not be dismissed on ground of limitation. This appeal was admitted on 11.04.1991 and counsel for the respondent has informed that the department has given the benefit of the service of the plaintiff with effect from 06.10.1978 and he has been remained thereafter for the last 24 years. After going through the judgment passed by the trial Court and the lower appellate Court that the plaintiff had been reinstated in service after a gap of 24 years without holding any inquiry or punishment order had rightly to be counted for service benefits. No substantial question of law arises for consideration in this appeal.

Dismissed.

09.07.2015
Vinay

(RITU BAHRI)
JUDGE