

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 761 of 1991 (O&M)

Date of decision:- 04.03.2015

Jokhu Ram Chowkidar ...Appellant

Versus

Haryana State & anr. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sachin Mittal, Advocate
for the appellant.

Mr. D.R. Singla, DAG, Haryana

RITU BAHRI J.

This regular second appeal is against the judgment and decree dated 21.11.1990 passed by learned Additional District Judge, Jalandhar and judgment and decree dated 25.05.1989 passed by the learned Sub Judge (2nd Class) Jalandhar.

Plaintiff-appellant (for short 'appellant') filed a suit for declaration to the effect that he be treated as chowkidar on regular basis from 10.04.1978 and is entitled to all the benefits accruing thereafter including the revision of pay scales w.e.f 01.04.1979 and for treating him to be on duty between 30.08.1983 to 09.05.1984 and is entitled to balance wages during the period of suspension.

The appellant was appointed as Mali-cum-Chowkidar in the year 1969. In the year 1974, he was made

regular chowkidar vide office order dated 20.12.1974. Vide office order dated 03.04.1978, he was reverted to his original work charge post. The appellant presented a demand notice and the matter went before the Labour Commissioner, Haryana, Chandigarh. A compromise under Section 12(3) of the Industrial Disputes Act was got effected wherein it was agreed that the appellant will be considered as Chowkidar w.e.f 10.04.1978 and he was held entitled to all the benefits being given to other chowkidars. It was also agreed that the appellant's service would be considered continuous from 15.06.1969. This agreement was signed by both the parties and the Deputy Labour Commissioner, Haryana. After this compromise, the false charges were levelled against the appellant and he is made to undergo duty for 16 hours a day on a disposal tubewell.

The respondents/defendants (for short 'respondents') contested the suit and admitted that the appellant was appointed as Mali-cum-Chowkidar in the year 1969 and was made regular chowkidar vide office order dated 20.12.1974 and was given uniform benefit in the year 1975. The compromise effected between the parties was admitted by the respondents. The compromise reads as under:-

“Shir Jokhu Ram Chowkidar will be considered
as Chowkidar on his post w.e.f 10.04.1978 and will

be given to those benefits, which are being given to the other chowkidars. His services will be taken to be continuous from 15.9.1969 and will be given all the benefits of past service.”

It was clarified that the grade of all regular staff was revised w.e.f 01.04.1979. The appellant was brought on regular grade w.e.f 24.07.1980 by S.E, P.W.D Public Health Circle, Ambala vide order dated 06.11.1981 and he had already been given benefit of revision in the pay scale w.e.f 24.07.1980 as well as increments up to 1983. He was placed under suspension vide order dated 30.08.1983 and was reinstated w.e.f 07.05.1984 after conducting proper enquiry. He was also given punishment of one increment without further effect and his suspension period was treated as leave of the kind due, vide order dated 22.02.19874 (Ex DW1/E) which shows that the enquiry was conducted and the appellant remain irregular and non-punctual to his duties. He was found guilty of having direct correspondence with the higher authorities. The punishing authority vide order dated 07.05.1984 (Ex D1) reinstated the appellant with immediate effect and ordered stoppage of one increment without future effect. The decision regarding suspension period was taken as per order dated 12.09.1984 (Ex DW2/13) and it was sanctioned as leave of the kind due. Thus, the

judgment passed by both the Courts below, calls for no

interference and does not suffer from any infirmity. No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed

04.03.2015
G Arora

(RITU BAHRI)
JUDGE