

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

RSA No.3422 of 1997

Date of decision:6.5.2015

Mohan Singh

....Appellant

VERSUS

**Secretary to the Ministry of Water Resources and another
.....Respondents**

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

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

Mr. Vishal Garg, Advocate for respondents.

HEMANT GUPTA, J.(Oral)

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the Courts below whereby suit for declaration to the effect that the plaintiff is entitled to all pensionary benefits for the post of Driller-cum-Mechanic by counting the period of work charged service was dismissed.

The suit was filed on 02.01.1992 i.e. after the commencement of the Administrative Tribunals Act, 1985 (for short 'the Act'). In the written statement, the defendant has raised a preliminary objection which reads as under:-

“2. That the Hon'ble Court has no jurisdiction to entertain and try the present suit as the Plaintiff was a Central Government Employee at the time of tendering his resignation which was duly accepted. Thus the suit pertains to service benefit to the Plaintiff which is alleged to be accrued due to his services in Central Government Department, proper Court for seeking relief is Central Administrative Tribunal. The Plaintiff filed the present suit in wrong jurisdiction.”

However, such preliminary objection was not adverted to by both the Courts below. The appellant is a person holding a civil post having been appointed by Exploratory Tubewell Organization, Exploratory Division No.IV, Roorkee, District Saharanpur under the aegis of Government of India on 18.11.1960.

Since the appellant was holding a civil post under the Union, no Court except the Hon'ble Supreme Court or Industrial Tribunal or Labour Court or other authority constituted under the Industrial Disputes Act, 1947 has a jurisdiction to deal with any matter relating to service condition of the persons holding a civil post under Section 28 of the Act.

The suit filed by the appellant before the Civil Court is thus barred under Section 28 of the Act. Thus the suit could not have been entertained by the Civil Court.

Consequently, the present appeal is dismissed for the reason that Civil Court has no jurisdiction to entertain the civil suit.

However, it shall be open to the appellant to avail such other remedy as the appellant considers appropriate in accordance with law.

(HEMANT GUPTA)
JUDGE

MAY 6, 2015
'D. Gulati'