

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.1362 of 2013 (O&M)

Date of Decision: May 11, 2015

Surinder Singh

.....Appellant

versus

Municipal Corporation, Amritsar and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.R.S.Ahluwalia, Advocate, for the appellant.

Mr.R.D.Bawa, Advocate, for the respondents.

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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?

Surya Kant, J. (Oral)

The appellant joined the respondent-Municipal Corporation as a Peon on daily wages for 89 days w.e.f. 27.01.1984. He was granted extension from time to time and finally his services were regularized. The appellant was involved in a criminal case in which he was acquitted on 25.01.1986. Apparently, he remained under suspension till his acquittal in the criminal case. He was reinstated vide order dated 20.03.1986. The service period between 04.06.1984 to 20.03.1986 was treated as leave without pay. That very period, vide a subsequent order dated 20.06.1987 was ordered to be treated as extra ordinary leave.

[2] Thereafter arose a dispute regarding seniority of the appellant as Peon. It appears that he wanted that seniority be assigned from the date of his initial appointment on

27.01.1984. The authorities accepted his claim vide order dated 02.04.2007 and placed him in seniority at Sr.No.24-A. The appellant then demanded consequential benefits for which he approached this Court by way of a writ petition. No sooner the writ petition came up for final hearing, the respondent-Corporation vide order dated 12.01.2010 cancelled the previous order dated 02.04.2007. Resultantly, the seniority of the appellant was brought down to the earlier date, i.e., from 05.05.1988 instead of 27.01.1984.

[3] Learned Single Judge relied upon the order dated 12.01.2010 and rejected the appellant's claim.

[4] The question that arises for consideration is whether the order dated 12.01.2010 could be passed without hearing the appellant?

[5] It is well settled that any administrative action which visits an employee with civil consequences must not be taken without observing the principles of natural justice. Since the order dated 12.01.2010 has adversely effected the seniority of appellant in the cadre of Peons, it was imperative upon the authorities to hear him and then take an appropriate decision in accordance with law. Since no show cause notice was given to the appellant, we allow this appeal; set-aside the order dated 06.05.2013 of the learned Single Judge and quash the order dated 12.01.2010 passed by the respondent-Corporation.

[6] However, there shall be liberty to the respondent-Corporation to pass an appropriate order, if need be, after giving a show cause notice to the appellant. If the Corporation decides not to pass any such order, in that case, the consequential benefits flowing from the order dated

02.04.2007 shall be granted to the appellant. While the Corporation shall be at liberty to initiate fresh proceedings, if so desires, within four months from the date of receiving a certified copy of this order, in the event of not taking such action, the appellant shall be entitled to consequential benefits within a period of three months thereafter.

[7] Ordered accordingly.

[8] Dasti.

[SURYA KANT]
JUDGE

May 11, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE