

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

R.S.A. No. 1555 of 2012 (O&M)

Date of decision : 14.05.2015

R.D. Kamboj

...Appellant

versus

President Governing Body Dayal Singh College, Karnal & anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.K. Goel, Advocate
for the appellant.

Mr. Vivek Suri, Advocate
for the respondent.

RITU BAHRI , J.

Plaintiff appellant (herein after to referred as 'the appellant') has come up in Regular Second Appeal against the judgment and decree dated 24.01.2012 whereby the judgment and decree dated 19.12.2009 passed by Additional Civil Judge (Sr. Divn.) Karnal was set aside and the suit of the appellant was dismissed.

Appellant retired from Haryana Government as Chief Accounts Officer in April, 1997. He was again offered appointment as Accounts Officer in Dayal Singh College Trust, Karnal in March, 1998 and remained with the said Trust of the College upto 31.03.2004. The

appellant was further appointed by the President of the Governing Body of the College as Accounts Officer in Dayal Singh College, Karnal on contract basis on a consolidation salary of Rs.6000/- per month for a period of one year from the date of joining of the said duty. Thereafter, respondent No. 2, who was working as Principal at that time issued a formal appointment letter dated 13.12.2004 and the appellant joined the college on the same day. The term of the appellant was further extended vide letter dated 28.12.2005 for a further period of one year w.e.f 13.12.2005 with a monthly salary of Rs.9000/- per month. This contract was further extended for a period of two years w.e.f 13.12.2006 with a monthly salary of Rs.12000/- per month. After the retirement of Sh Ramji Lal, Principal of the college on 31.10.2007, Dr. S.C. Bhardwaj was appointed as acting Principal of the college till final and proper selection of the Principal of the College. The relation between Dr. S.C. Bhardwaj and Shri Ram Lal were highly strained. The appellant was assigned the work of audit and in due course of his duties, appellant pointed out certain illegalities committed by the college and highlighted the mistake and revealed the outstanding advances of more than Rs.5.25 lacs, which were given to teaching and non-teaching staff. Thereafter, he sent the audit report directly to President of the Governing Body of the college as

per routine and Dr. S.C Bhardwaj got flared up and vide letter dated 10.01.2008 sought the explanation of the appellant as to why he has communicated with the President of the College which amounts to violation of Service Conduct Rules, to which the appellant replied denying the allegations. Respondent No. 2 also called the explanation of the appellant for supplying wrong information under RTI Act. Thereafter, the appellant was compelled to submit his resignation on 14.05.2008.

The trial Court after going through the entire evidence led by the parties, took into consideration the cross examination of D.W.1 who admitted in his cross examination that he has admitted before President that in the absence of R.D. Kamboj, the work of the college can run smoothly. It was also admitted that M.L. Chawla was appointed as Accounts officer after the acceptance of the alleged resignation of the appellant. This proves that it was clear in the mind of Dr. S.C. Bhardwaj that he will not tolerate the presence of the appellant in the institution as he wanted to get rid of him, as the appellant was pointing out some irregularities with audit objections, which were not found proper by Dr. S.C. Bhardwaj, who was Principal. The language of the resignation letter Ex P-10 and D1 clearly reveals that under which circumstances, the appellant was forced to put his signatures and he

had used words like “unfortunate: and his smooth relations with previous Principal Dr. Ramji Lal. The possibility of throwing away the appellant from institute due to personal rivalry of Dr.S.C bhardwaj with Dr. Ramji Lal, previous Principal cannot be ignored. The trial Court decreed the suit of the appellant and order dated 15.05.2008 was held to be illegal and was set aside and the respondents were directed to pay the salary to the appellant for the period from 20.05.2008 to 12.12.2008 of the unexpired contract @ Rs.12000/- per month along with interest @12% per annum from the date of filing of the suit till its realization.

Thereafter, respondents went in appeal, which was allowed by the Lower Appellate Court. The Lower Appellant examination resignation letter dated 14.05.2008 Ex P-10 and D1, which reads as under:-

“To

The President

Dyal Singh College Governing Body,

New Delhi

Respected Sir,

Respectfully, it is submitted that after serving in the Trust Office, Karnal six years, I had been given chance in the College as Accounts Officer in December, 2004. The state of accounts and office work at that time was in disarray and in very

bad shape. The daily office correspondence was not going efficiently and properly. It took over two years hard labour to streamline the working college office.

My work and functioning remained smooth and relationship was harmonious with Dr. Ramjit Lal and I was able to achieve the solution of various problems with his support and co-operation.

Since, Dr. S.C. Bhardwaj taken over charge as Principal on 11.11.2007, unfortunately, I find that I am not getting the same co-operation as higher-to-fore which make my functioning ineffective. This I find frustrating and has made difficult for me to function.

I, therefore, request that I may be relieved of my post from the College as early as possible by treating this as my resignation. I am sure that my work in the college shall be appreciated.

I, again thank you sir for giving me full cooperation and proper guidance in the discharge of my duties in the College.

Thanking you.

Yours sincerely

sd/-

Dated:- 14th May, 2008

*(R.D. Kamboj)
Accounts Officer,
Dyal Singh College, Karnal*

While accepting the resignation, the following order was passed by the President of the Trust.

“Principal

The resignation is accepted. Mr. Kamboj be relieved from duty

on Monday, the 19th May, 2008 when he hands over charge.

He is to be paid salary up to 19.05.2008 as also “ Rs.12000/-

(Rs. Twelve thousand only) being one month salary.

Sd/

President

After examining the contents of the resignation letter, the Lower Appellate came to a conclusion that the appellant was not coerced to resign or the resignation was the result of undue influence. The appellant had requested the President of the College Governing Body that he may be relieved from the College as early as possible as he was not getting the same cooperation as he was getting from Dr. Ramji Lal.

Further Dr.S.C. Bhardwaj D.W.1 deposed that on 14.05.2008, he had also gone to Delhi to meet Diwan Anand Kumar, President of the Governing Body of Dayal Singh College, Karnal for official work. When he reached the office, he found the appellant sitting there. Thereafter, he gave his resignation. Hence the findings recorded by the trial Court that the appellant was forced to resign from his job under undue influence, has no legs and was rightly set aside by the learned lower Appellate Court by observing that the appellant was a retired government employee and was working on

contract basis. While accepting his resignation, one monthly salary has been given to the appellant. Thus, the appellant's right have not been prejudiced in any manner. The appellant in his resignation letter has questioned the authority of the Principal under whom he was working.

After going through the judgment passed by the lower Appellate Court, no substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

(RITU BAHRI)
JUDGE

14.05.2015

G Arora