

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

RSA No.4686 of 2011 (O&M)

Date of decision: 27.08.2015

Dharam Pal

..... Appellant

versus

Union of India and others

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Vikas Singh, Advocate for the appellant
Mr. Ajay Kaushik, Sr. Panel Counsel for respondent No. 1
Mr. Vikas Chatrath, Advocate for respondent Nos. 2 to 6

1. *Whether Reporters of Local Newspapers 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?*

Kuldeep Singh, J. (Oral)

Challenged in the present regular second appeal is the judgment and decree dated 27.1.2011, passed by the learned Additional District Judge (Adhoc) Fast Track Court, Amritsar, affirming the judgment and decree dated 15.5.2010, passed by the learned Civil Judge, Junior Division, Amritsar, vide which, suit of the plaintiff for permanent injunction was dismissed.

Briefly stated, the plaintiff had sought the decree for permanent injunction for restraining the defendants from relieving him from the post of Assistant Manager General (Regular) working in the office of District Manager, FCI, Amritsar.

It was case of the plaintiff that he had applied for voluntary retirement from the post of Assistant Manager (General)

Adhoc vide application dated 27.9.2004. Later on, he sent another application on 13.10.2004, withdrawing and cancelling the said request. However, the voluntary retirement was accepted by the defendants vide order dated 9.11.2004.

I have heard learned counsel for the parties and have also carefully gone through the file.

In this case, the relief for permanent injunction was sought without seeking declaration that the order passed by Zonal Manager dated 9.11.2004, accepting his request for voluntary retirement is illegal. Mandatory injunction was also sought for directing the defendants to allow him to work on the promoted post of Assistant Manager General regularly.

Learned counsel for the appellant has argued that an application for amendment of the plaint was moved before the lower Court for seeking declaration. However, the same was declined. It was not disputed that the said order was not challenged in appeal and has now become final. The fact remains that no declaration was sought that the impugned order dated 9.11.2004 is illegal. Therefore, without setting aside the said order, no permanent injunction or mandatory injunction could be granted.

Learned counsel for the appellant has referred to the pleadings wherein it was averred that the said order is illegal. However, since no specific declaration was sought that the said order is illegal, mere mentioning of the same would not mean that the declaration was also sought. Therefore, without the declaration, the relief of injunction could not be granted. Moreover, the plaintiff had

already attained the age of superannuation. Therefore, otherwise also, he can not be allowed to rejoin.

Learned counsel for the appellant faced with these circumstances has prayed that he may be allowed the pensionary benefits till the date of superannuation.

I am of the view that since the impugned order was not sought to be set aside, therefore, relief was rightly declined by both the Courts below. No substantial question of law is involved in the present appeal.

Hence, the appeal is dismissed.

In view of disposal of the appeal, all the pending applications also stand disposed of.

27.08.2015
gk

(Kuldip Singh)
Judge