

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 2421 of 2012 (O&M)
Date of decision:- 06.08.2015

Rekha Chander

...Appellant

Versus

State of Punjab & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Ravinder Kaur Manaise, Advocate
for the appellant.

RITU BAHRI J.

Plaintiff-Appellant (for short 'the appellant') is in regular second appeal against the concurrent finding of fact recorded by both the Courts below whereby the suit of the appellant was dismissed.

The appellant was appointed as Craft teacher on 89 days basis in the pay scale of Rs.1240-40-1320-45-1500-50-2000-60-2000-70-2130 besides other allowances by the Chairman, Panchayat Samiti and after the expiry of said period of 89 days vide resolution, the period of service was extended for 89 days w.e.f 11.05.1995 and after the expiry of said period, she was again re-appointed on 89 days w.e.f 08.09.1995. She was paid wages upto 30.09.1995 and was informed by BDPO, acting as Executive Officer, Panchayat Samiti, Bamial that her services were being terminated, vide order dated 05.09.1995, under the directions of Under

Secretary, Rural Development and Panchayat Department, Punjab Government, Chandigarh. After termination of her services, notice of demand was served under Section 10 of the Industrial Disputes Act and the case was referred to the Labour Court, Gurdaspur for adjudication as to whether her services has been wrongly terminated. Thereafter, the Labour Court decided the case in favour of the appellant and she was held entitled to continue in service and 50% back wages. However, the department filed CWP No. 6209 of 1999 against the order passed by the Labour Court, which was allowed and it was held that appellant was not a workman under the Industrial Disputes Act. Thereafter, the appellant served a legal notice under Section 80 C.P.C on 19.02.2001 calling upon the respondent to treat the impugned order as null and void and to reinstate the service of the appellant with all service benefits. The appellant has now challenged the impugned order dated 17.11.1995 on the ground that the order was passed by the Executive Officer, who was neither the appointing nor disciplinary authority and no enquiry was conducted before passing the order and the said order was passed in violation of terms and conditions of the appointment. No charge sheet was issued and the post was a permanent and substantive one.

On notice, the respondents filed their written statement taking preliminary objections that the suit of the

appellant is not maintainable and barred by limitation and the suit is bad for non-joinder of necessary parties as Panchayat Samiti has not been arrayed as party. On merits, it was pleaded that the appellant has put in service of 231 days only commutativity and the reasons for her termination was that her initial appointment was made against the rules and without the requisite approval of the Government and when the approval was sought, it was ordered that her services be terminated.

The appellant filed replication controverting the pleas taken by the respondents in their written statement

After hearing learned counsel for the appellant, the instant appeal is devoid of any merit and deserves dismissal.

Both the Courts dismissed the suit of the appellant on the ground that she was appointed as per Ex P1 and the first condition laid down in Ex P1 that your services is purely on temporary basis and can be terminated any time sans service of notice which shows that no notice is required to be service as per conditions mentioned in the appointment letter Ex P1. Further no notice is required to be served upon the appellant who had served for 89 days only. Thus, the respondents were well within their right to terminate the service of the appellant, who was working purely on temporary basis. Reference at this stage can be made to a

judgment of this Court in a case of ***Harjot Kamal Singh vs. State of Punjab 1997(1) RSJ 95*** and the judgment of Hon'ble the Supreme Court in a case of ***State of Punjab and others vs. Surinder Kumar and others, J.T 1991(6) SC 540*** wherein it is held that ad hoc/temporary employee can be terminated in terms of his appointment letter. Ad hoc appointments are made without notifying the vacancies to Employment Exchanges.

Both the Courts below rightly dismissed the suit of appellant on the ground that her services was purely on temporary basis and thus can be terminated any time without giving her notice.

No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed.

August 06, 2015
G Arora

(RITU BAHRI)
JUDGE