

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

RSA No.3456 of 2012(O&M)

Date of Decision:-18.02.2015

Ram Kali & Anr.

.....Appellants.

Versus

State of Haryana & Ors.

.....Respondents..

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. J.S. Sanetta, Advocate for the appellants.

Mr. Shivendra Swaroop, AAG Haryana.

JASWANT SINGH, J.(ORAL)

Plaintiffs are in second appeal aggrieved against the concurrent findings returned by the courts below whereby their suit for declaration was dismissed by the learned Civil Judge(Jr. Divn.), Karnal vide judgment and decree dated 22.09.2006 and the findings thereof have been affirmed by learned Additional District Judge, Karnal vide judgment and decree dated 30.11.2011.

Learned Counsel for the appellant has argued that the plaintiffs were working as Mali in the office of the department at Garhpur Khalsa Nuursery since 1985-1987 respectively. They had raised demand notice dated 6.4.1996 under Section 10(c) of the Industrial Disputes Act, 1947 for regularisation of their service w.e.f. 31.03.1996. However, their

services were dispensed with from 31.3.1996. Accordingly, they preferred dispute before the Industrial Tribunal cum Labour Court, Panipat which decided the reference in their favour by holding that both of them are entitled for reemployment on preferential post in the department. It was argued that as per Haryana Government instructions, the daily wage employees who had completed three years service as on 31.01.1996 and were also in service on 31.01.1996 and had also completed 240 days in a calendar year are entitled to regularization. It was also argued that since the appellants had completed all the requirements, therefore, they are entitled to benefit of regularization of their service.

On the other hand learned Counsel for the respondent has argued that the judgment and decree passed by the learned Courts below does not suffer from any illegality or infirmity and thus, no interference is warranted from this Court.

After hearing learned Counsel for the parties, and perusing the paper book, this Court is of the considered view that the present appeal is devoid of any merit and the same deserves to be dismissed.

In the present case plaintiffs are claiming regularization of their services that consequential benefits as per award dated 20.03.1998 passed in their favour by the Tribunal. A perusal of the award dated 20.03.1998 passed by the Tribunal would show that Forest Department was directed to give preference to the plaintiff in re-employing gardeners or labourers after giving them opportunity in the manner prescribed under Section 25 H of the Act. It is admitted position that the Forest

Department has already considered the case of the plaintiffs for regularization of their services in view of the government instructions Ex.D-3 and found that they do not fulfill the terms and conditions necessary for regularization of their service. It is important to mention here that the plaintiffs as well as other employees had preferred a CWP before this Court challenging the order dated 27.10.2003 which was admittedly disposed of with a direction to the defendants to consider the claim of the plaintiffs as well as other employees for regularization of their services keeping in view the position rendered by this Court in Dalip Singh's case and in case plaintiffs were found fit for regularization, they be granted all the consequential benefits and further the present defendants/respondents were further directed to pass a well reasoned order within three months. It is an admitted position that the defendants/respondents had reconsidered the case of the plaintiffs for regularization of their services and again found that they did not fulfill the terms and conditions of the policy/instructions issued in the year 1996 and 2003.

Further, the award dated 20.03.1998 reveals that it was found by the Tribunal the plaintiff had not worked for 240 days in a calendar year preceding date of termination of their services and as such Section 25 F of the Industrial Disputes Act was not found to be applicable. Hence this Court has no hesitation in holding that that the plaintiffs are not covered under the instructions/policy issued by the respondent-Government in the year 1996 and 2003 and thus they are not entitled for regularization of their services and all the other consequential benefits.

In view of the above, finding no question of law much less substantial question of law arising for determination in the present second appeal, the same is hereby dismissed.

**(JASWANT SINGH)
JUDGE**

February 18, 2015
Vinay