

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1422 of 2013 (O&M)

Date of Decision.19.08.2015

Sukhwinder Kaur

.....Appellant

Versus

Market Committee, Mallanwala and others

.....Respondents

Present: Mr. B.S. Sidhu, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. Delay of 11 days in filing the second appeal is condoned.
2. The appellant is the plaintiff who challenged the order of termination effected on her through a resolution of the employer-Marketing Board on 28.04.1997. According to her, she had given a request for resignation even earlier but the same was not accepted by them but instead they had terminated the services but the copy of the resolution terminating her had not been even served on her. She gave a letter on 30.04.2002 to rejoin services referring to the fact that a person who had removed from service would be entitled to apply for joining the the services back if the post was still vacant. The Market Committee, however, had filled up the post as Clerk which post she was holding by promoting a Chowkidar. Her contention, therefore, was that the promotion of Chowkidar to the post of Clerk was only to fill up a post and defeat the plaintiff's right and the Chowkidar was not even

competent to hold the said post.

3. There was also a plea by the plaintiff that she was not made aware of any enquiry by the department and all the proceedings which had been initiated pursuant to the so-called enquiry and report were illegal and not binding on her. The Market Committee joined issues on all the contentions raised and pointed out that she had been served with notice of departmental enquiry and confronted the notices issued to her during the time of trial. The Court referred to the fact of admission by the plaintiff that she had been served with notice and she had given replies also but, however, did not file counter reply.

4. She also admitted that she was issued with a charge-sheet by the Market Committee before the constitution of departmental enquiry. In a situation where the plaintiff had been served with copy of the chargesheet and when she had also served with notices by the enquiry officer, if she chose to remain absent during the enquiry, she could not have anything to complain that the enquiry was vitiated in any way and that the report issued by them would not bind her. When the order of termination was made which was again in the year 1997 itself, she had given a notice on 30.04.2002 offering to rejoin services only on the basis that services were not any longer available and admittedly on her own she was not attending the duty after 30.08.1994 at least any day after her letter of resignation which was issued by her on 29.05.1995.

5. The Court after setting out that there had been no error in the enquiry which was constituted and in the ultimate decision taken also found that for a removal from service on 28.04.1997, a suit cannot

be instituted on 19.04.2004. The suit was clearly barred by limitation. With no violation of the particular regulations or no justification for not resorting to an action within the period which the law would prescribe which would be three years from the date when the order of termination was passed, there was simply no cause for the plaintiff to prosecute. I am of the view that the plaintiff cannot have a relief that she has sought for.

6. There is no substantial question of law for consideration in the second appeal. The second appeal is dismissed.

(K. KANNAN)
JUDGE

August 19, 2015
Pankaj*