

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 4310 of 2013 (O&M)

Date of decision : July 20, 2015

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Prithvi Singh

.....Appellant

Versus

The General Manager, Haryana Roadways,
Kaithal and others

.....Respondents

* * * * *

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Harish Mehta, Advocate for the appellant.

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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?*

RITU BAHRI, J

C.M No. 11668-C of 2013

C.M is allowed.

For the reasons mentioned in the application, delay of
243 days in refiling the appeal is condoned.

RSA No. 4310 of 2013

The plaintiff-appellant (hereinafter referred to as 'the plaintiff') has come up in this regular second appeal against the judgment of the trial Court dated 12.3.2010 passed by the Judge (Junior Divison), Kaithal, whereby the suit of the plaintiff has been dismissed and the judgment dated 24.7.2012 passed by the Additional District Judge, Kaithal, whereby the appeal against the

judgment of the trial Court was dismissed.

Plaintiff filed a suit for a decree for declaration to the effect that the impugned order dated 31.3.2006 passed by defendant no.1 is illegal, null and void and as a consequential relief a decree for mandatory injunction directing the defendants to release benefit of ACP scale by counting length of service with effect from the date of appointment i.e 14.11.1984 and date of regularization of plaintiff be deemed as July 1985.

Plaintiff was appointed as Conductor on temporary basis on 14.11.1984 and his services were dispensed with on 2.1.1985. Again he was appointed from 24.5.1985 to 5.12.1985 and 29.3.1986 to 3.11.1986. The plaintiff was again appointed on 6.5.1987 and he worked as such at Jind up to 4.8.1987. Thereafter, he was transferred to Kaithal and he joined on 18.8.1987 and worked up to 18.12.1987. On 18.12.1987, his services were dispensed with. He was again appointed as Conductor on ad hoc basis on 25.3.1988 and his services were regularized after completing 240 days on 19.11.1988. He was given first ACP from. 1.12.1998 vide letter dated 31.3.2006, which was placed on record Ex. P-7 as well as Ex. D-11. The plaintiff is claiming that for the purpose of granting him ACP scale, his total length of service should be counted i.e 14.11.1984 and his deemed date of regularization should be treated as July 1985.

The respondents in the written statement stated that the plaintiff had been inadvertently granted the benefit of regularization

which was later on corrected by the department. The plaintiff challenged that order vide civil suit which was set aside but a liberty was given to the department to pass fresh order after issuing show cause notice. Department issued a show cause notice and passed the order 31.3.2006 which was challenged by way of filing civil suit and the suit was dismissed by the trial Court.

The plaintiff filed an appeal against the judgment of the trial Court. Appellate Court observed that the defendants were able to lead sufficient evidence to show that plaintiff had completed 240 days when he was appointed on 25.3.1988 and thereafter his services were regularized on 19.11.1988. On earlier occasions when he was appointed, he had not completed 240 days in one calendar year. First ACP was granted to him on 1.12.1998 when he had completed 10 years of regular service. Appellate Court found no infirmity in fixing the date of regularization of plaintiff as 19.11.1988. The plaintiff had produced on record the list showing the date of appointment and date of regularization of the employees Ex. P-8 to contend that his juniors are getting better scale than him. The list Ex. P-8 was examined by the Courts but from the list it could not be made out that the employees were junior to the plaintiff. The plaintiff while appearing as PW-1 admitted in his cross-examination regarding the breaks in service periods mentioned in the impugned order. Hence, appellate Court observed that the order of regularization w.e.f 19.11.1988 does not require any interference in the regular second appeal before the trial Court.

The defendants had placed on record letter Ex. R-2 in which the General Manager of all the depots of Haryana Roadways were directed not to assess the seniority of the conductors on the basis of letter dated 6.10.2008, Ex. P-10. The Transport Commissioner, Haryana vide letter Ex. R-3 had directed General Managers of all the depots of Haryana Roadways not to assess the seniority of the conductors as per the letter dated 6.10.2008 Ex.P-10 and to drop the seniority list of the conductors assessed from the date their services were regularized after inviting the objections to the same. A copy of the instructions Ex. R-1 issued by the State Transport Controller, Haryana to all the General Managers of the Haryana Roadways depot was also placed on record vide which the services of the officials of Haryana Roadways were directed to be regularized from the date they had completed 240 days of continuous service in Haryana Roadways.

In view of all that has been discussed above, there is no illegality or infirmity in the judgments passed by the Courts below. No substantial question of law arises for consideration in this regular second appeal. The same is hereby dismissed.

July 20, 2015
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(**RITU BAHRI**)
JUDGE

