

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

**Regular Second Appeal No.1067 of 2015 (O&M)
Date of decision : 21.04.2015**

CCS Haryana Agricultural University, Hisar

....Appellant

versus

Dharmender

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sailender Singh, Advocate,
for the appellant.

RITU BAHRI, J.

Defendant-appellant has come up in regular second appeal against the judgments of concurrent findings of fact recorded by both the Courts below, whereby suit filed by the plaintiff-respondent has been decreed.

Dharmender-plaintiff was appointed as Clerk by the appellant-University on 22.04.1995 against a vacant post as a DPL. On 30.09.2003, he had completed more than eight years of service as DPL Clerk with the university. Pursuant to the policy dated 01.10.2003 of State of Haryana, the Vice Chancellor of the defendant-university had considered the case of the plaintiff along with other five clerks on 11.05.2004. However, orders for regularization of other five clerks were issued and the case of the plaintiff was decided to be kept separately. Thereafter, the plaintiff-respondent made several representations to the defendant-university for regularization of his

services as Clerk w.e.f. 01.10.2003. Ultimately, the case of the plaintiff for regularization was rejected on 14.07.2010. Consequently, the plaintiff filed a suit challenging the aforesaid orders.

Upon notice, the defendant-university filed its written statement admitting that the plaintiff had completed more than eight years of service as DPL in the university as on 30.09.2003. However, it was stated that the plaintiff was not entitled for regularization of his service as he did not possess the prescribed qualification as on 30.09.2003. It was further stated that five other persons were already working in the regular scale of clerk and the case of the plaintiff was different from their case. Subsequently, the Government had withdrawn its regularization policy on 29.05.2007 in view of the judgment of the Hon'ble Supreme Court in case of State of Karnataka Vs. Uma Devi, (2006) 4 SCC 1.

The trial Court vide judgment and decree dated 29.01.2014, decreed the suit of the plaintiff-respondent on the ground that while regularizing other five employees, a condition was imposed that they would not draw the annual increment till they pass the typing test. The case of the plaintiff was similar to those five employees and at the time of regularization of those five employees, the plaintiff was eligible.

On appeal filed by the defendant-university, the first appellate Court observed that the judgment of the Hon'ble Supreme Court in State of Karnataka Vs. Uma Devi came in the year 2006, whereas the plaintiff had been in service since 22.04.1995. Therefore, he had served for more than 10 years when the aforesaid judgment was pronounced. Apart from the said judgment, he was also covered by the notification dated 01.10.2003 of the State of Haryana, on the basis of which, services of other five employees

were regularized. Since the policy/notification dated 01.10.2003 was not withdrawn with retrospective effect, the plaintiff had a right to be regularized when five other employees, who were junior to the plaintiff and had not qualified the typing test, were regularized. This fact was admitted by Somnath Pruthi (DW-1) in his cross-examination. Ultimately, the appellate Court partly accepted the appeal and reduced the rate of interest from 12% to 9% per annum.

After going through the judgments passed by both the Courts below, no irregularity, much less perversity, has been found therein warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

However, a direction is given to the appellant-university to comply with the judgment passed by the lower appellate Court within a period of four months from the date of receipt of certified copy of this judgment.

(RITU BAHRI)
JUDGE

21.04.2015
ajp