

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

**Regular Second Appeal No.4849 of 2014 (O&M)
Date of decision : 30.04.2015**

The State of Haryana and others

....Appellants

versus

Smt. Roshni Devi and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Siddharth Sanwaria, DAG, Haryana,
for the appellants.

RITU BAHRI, J.

CM No.11421-C of 2014

For the reasons mentioned in the application, same is allowed
and delay of 80 days in filing the appeal is condoned.

RSA No.4849 of 2014

Defendant-appellants have 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 plaintiffs-respondents has been
decreed.

Jug Raj, husband of plaintiff No.1 and father of plaintiff Nos.2
to 4, was appointed as helper in Health Department on 05.12.1992.
However, his services were terminated on 12.04.1997. Pursuant to the
Award passed by the Labour Court on 04.10.2006, he was reinstated in
service on 29.04.2007. The services of Jug Raj were not regularized and he
had expired on 28.05.2007. Plaintiff-respondents being the legal heirs of

Jug Raj have not been paid anything by the defendant-appellants, therefore, they sought regularization of his services w.e.f. 01.02.1996 and fixation of pension.

Upon notice, defendant-appellants filed a joint written statement controverting the claim made by the plaintiff-respondents in the plaint. On merits, it was stated that Jug Raj, husband of plaintiff No.1 and father of plaintiff Nos. 2 to 4, was working in the health department on daily wages. Pursuant to the Award passed by the Labour Court, plaintiff No.1 was paid an amount of Rs.1,39,901/- as back wages and Rs.2854/- as salary of one month vide draft Nos.1020781019 and 1020781020 dated 23.06.2007. No request was ever made by Jug Raj to regularize his services.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether Jug Raj is entitled to be regularized w.e.f. 01.02.1996? OPP
2. If issue No.1 is decided in favour of the plaintiffs, then whether the plaintiffs are entitled to receive all the service benefits and pension?
OPP
3. Whether the plaintiffs are entitled to the relief of mandatory injunction as prayed for? OPP
4. Whether the suit is not maintainable in the present form? OPD
5. Whether the plaintiffs have no cause of action and locus standi to file the present suit? OPD
6. Relief.

Both the Courts below have decreed the suit of the plaintiffs.

As per the deposition of Dr. Vishal, Medical Officer, CHC, Sampla (DW-1),

an amount of Rs.1,39,901/- had been paid to plaintiff No.1 as back wages along with Rs.2854/- as salary of one month. But, in his cross-examination, he admitted that Jug Raj-husband of plaintiff No.1 was doing the job of class IV when he expired and no benefit of pension has been extended to his family members. Pursuant to the Award, Ex.PW2/B, passed by the Labour Court, Jug Raj had joined back his services and he was deemed to be in service continuously from 05.12.1992. This fact was admitted by Dr. Vishal (DW-1). As per the death certificate, Ex.P1, Jug Raj had expired on 28.05.2007. As per the notification dated 18.03.1996, Ex.P8, it was decided to regularize the services of all work charge, daily wages employees, who have completed three years of service on 31.01.1996 and fulfill other condition laid down in Haryana Government letter dated 07.03.1996. Jug Raj had already put more than four years of service. After setting aside the termination order vide Award, Ex.PW2/B, there was no break in his service, as he had been reinstated with continuity of service. Hence, he was entitled to be regularized pursuant to the notification, Ex.P8.

Learned State counsel has made reference to the notification dated 18.06.2014, in which one of the condition for regularization is that there should be a sanctioned post at the time of initial appointment/engagement and the employee/worker should have worked for not less than 3 (three) years as on 28.05.2014 and should be still in service. However, these instructions are not applicable to the facts of the present case, as pursuant to the Award, Ex.P8, passed by the Labour Court, workman-Jug Raj had been reinstated in service on 29.04.2007 with continuity of service. Accordingly, for all intents and purposes, he was covered by the notification dated 18.03.1996.

After going through the impugned judgments, no illegality, much less perversity, has been found therein warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

(RITU BAHRI)
JUDGE

30.04.2015
ajp