

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 5264 of 2014 (O&M)

Date of decision:- 06.08.2015

Jaibir Singh

...Appellant

Versus

State of Haryana & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. S.P. Chahar, Advocate
for the appellant.

RITU BAHRI J.

C.M. No. 12410-C of 2014

For the reasons mentioned in the application, delay of 68 days in filing the present revision petition is condoned.

The application stands disposed of accordingly.

R.S.A No. 5264 of 2014

Plaintiff-Appellant (for short 'the appellant') is in second appeal against the concurrent finding of fact recorded by both the Courts below whereby the suit of the appellant (for short 'the appellant') for declaration to the effect that he was entitled to be regularized w.e.f 01.05.1992 to 01.02.1996 and mandatory injunction directing the defendants-respondents (for short 'the respondents') to pay the arrears and other outstanding benefits of the appellant along with interest etc, was dismissed.

Appellant joined the Department Haryana Roadways, Rohtak on 02.03.1998 as a Mechanical Helper and is working as Assistant Fitter at Kurukshetra. His services were regularized in view of the Haryana Government letter dated 05.06.1992 issued by Joint State Transport Controller, Haryana, Chandigarh. He has not been granted the arrears on account of benefit of seniority from 01.05.1992 to 01.02.1996 whereby all other employee who were in the same pay grade, their services have been regularized, in view of the letter dated 05.06.1992 and have been granted arrears as well. Despite a number of requests given by the appellant, he has not been given his due amount of arrears. Some employees had challenged the civil suit No. 809/1 of 1994 decided on 06.08.1996, which was decided in their favour. One Umed Singh had joined the department after 15 days of joining of the appellant and filed civil suit No. 1/98, which was decided on 27.08.2000 and one Lekh Raj also availed the said benefit in civil suit titled Lekh Raj v. State etc, which was decided in his favour and the appeal is pending. Another suit i.e Bijender vs. state etc has also been decided in his favour and appeal of which is pending. The appellant served a legal notice on 09.09.2008 but to no effect.

Upon notice, the respondents put in appearance and filed joint written statement and on merits, submitted

that initially appellant was appointed as Washing Boy on 02.03.1998 on daily wages basis. He was then appointed as Water Carrier on 01.06.1998 on daily wages basis. He was again appointed as Helper (daily wages) continuously w.e.f 10.03.1989. Thereafter, his services were regularized w.e.f 01.02.1996 vide order dated 21.05.1996 as per regularization policy of the State Government. The services of all seven employees whose services were regularized in view of the letter dated 05.06.1992, have been granted of arrears etc. from that date. Further it was submitted that the civil suit decided on 06.08.1996 was filed by Ashok Kumar, Black Smith, Rajinder Singh, Motor Mechanic and Tejbir Singh, Motor Mechanic and in that case, while passing orders dated 01.07.2003 regarding regularization of seven employees w.e.f 01.05.1992, it was mentioned that regularization was with reference to Transport Commissioner, Haryana memo dated 05.06.1992 and 26.05.1993. In the instruction dated 26.05.1993, it was mentioned in the condition that the left out of the combined list will be regularized from subsequent date as and when vacancy become available. All the above three candidates were senior to the appellant in the seniority list of daily wages workers. Umed Singh joined the department on 16.03.1998 and the appellant as helper on 09.01.1998.

Both the Courts below dismissed the suit of the

appellant on the ground that the suit was hopelessly time barred as admittedly the appellant was regularized on 01.02.1996 while representation was made by him for the first time as per Ex P1 on 09.09.2008 i.e after expiry of 12 years. Further he has not made those persons as party as appellant has placed himself in the similar shoes of several persons nor any evidence has been adduced by him so as to show how his case was similarly situated with that of those persons. Thus, he cannot seek the relief of regularization and injunction and the suit was held to be bad for non-joinder of necessary parties. No explanation was given by the appellant that why he kept mum for 12 years and he had not joined the necessary parties. Further no evidence was adduced by the appellant to show that the case of respondent No. 1 was similarly situated with that of those persons.

Both the Courts below rightly dismissed the suit of appellant on the ground that the suit was barred by limitation and on account of non-joinder of necessary parties.

No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed.

August 06, 2015
G Arora

(RITU BAHRI)
JUDGE