

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

**RSA No.5592 of 2014
Date of decision : 09.07.2015**

Satish Kumar ...Appellant
versus

State of Haryana & others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Singal, Advocate for the appellant.

RITU BAHRI, J (Oral)

The appellant/plaintiff has come up in regular second appeal against the judgment of the trial Court dated 30.07.2012 and the lower appellate Court dated 23.07.2014, whereby his suit for declaration and mandatory injunction to regularise him from the date of his juniors were regularised has been dismissed.

The plaintiff was appointed as a driver on 30.08.2002 and his services were regularised on 02.01.2007. Subsequently, he came to know that junior employees namely Pardeep, Driver No.200 (date of appointment 05.09.2002) and Rohtash, Driver No.29 (date of appointment 19.09.2002) had been regularised w.e.f. 05.09.2006 and 09.10.2006, respectively. The defendants took a stand that as per the instructions after completing four years' satisfactory service, the plaintiff was appointed as second grade driver on 02.01.2007 and a period of 123 days was treated as excluded from the service record.

Pardeep and Rohtash were appointed on contract basis later than the plaintiff but the period of Pardeep was not treated out of service, who was appointed on 05.09.2002 and regularised on 05.09.2006. In the case of Rohtash, he had remained absent only for 20 days and during this period he was regularised on 09.10.2006 and the plaintiff had remained absent for 123 days and this period was excluded from the service record and was appointed as a second grade driver on 02.01.2007 on regular basis. The appellant/plaintiff does not dispute this factual position that he had remained absent from the duty. Since the plaintiff had been appointed on contract basis, for calculating his number of total working days, the respondents had rightly excluded his 123 days on which he had remained absent. The trial Court decreed the suit of the plaintiff, however, the lower appellate Court while making reference to the judgment passed in the case of **Secretary, State of Karnataka Vs. Uma Devi 2006 (2) SCT 462 (SC)**, held that adhoc, temporary and daily wage employees cannot claim regularisation as a matter of right and no directions can be given for regularising service of a daily wager who had a backdoor entry in the service which is an anathema to Article 14 of the Constitution. It is not the case of the appellant/plaintiff that he has been discriminated by the authorities in the case of his regularisation and he cannot be extended any benefit of absent of 123 days during the period he was appointed on contract basis. The respondents after deducting 123 days have regularised his services with effect from 02.01.2007. The lower

appellate Court has dismissed the suit of the plaintiff as neither the order of regularisation suffers from any irregularity nor the plaintiff can claim right of regularisation from the date of his juniors were regularised. No substantial question of law arises for consideration.

Dismissed.

09.07.2015

Vinay

(RITU BAHRI)
JUDGE