

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

(1) Regular Second Appeal No.6347 of 2014 (O&M)

The State of Haryana and others

..... Appellants

Vs.

Raj Tilak

..... Respondent

(2) Regular Second Appeal No.6350 of 2014 (O&M)

The State of Haryana and others

..... Appellants

Vs.

Raj Tilak

..... Respondent

Date of Decision: 15.01.2015

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Shivendra Swaroop, A.A.G., Haryana.

JASWANT SINGH, J. (ORAL)

**C.M.No.15177-C of 2014 in
RSA No.6347 of 2014**

For the reasons mentioned in the application, duly supported by affidavit, delay of 413 days in filing the appeal is condoned.

**C.M.No.15183-C of 2014 in
RSA No.6350 of 2014**

For the reasons mentioned in the application, duly supported by affidavit, delay of 414 days in filing the appeal is condoned.

Main Appeals

The aforementioned two Regular Second Appeals filed by the

defendants/State of Haryana are being decided by this common order as they emerged out of the suit filed by the respondent/plaintiff Raj Tilak.

In both the appeals, separate applications have been filed seeking condonation of 413 days (in RSA No.6347 of 2014) and 414 days (in RSA No.6350 of 2014) in filing the appeals.

Briefly, the admitted facts are that the plaintiff was born on 20.04.1950 and on obtaining LLB degree was appointed as Assistant District Attorney on *Ad hoc* basis, vide order dated 07.12.1984 (Ex.D-1) and he joined as such on 04.01.1985 in the Department of Prosecution, Haryana. He was subsequently selected and appointed on regular basis on 02.06.1986 and he worked as such till 07.07.1986 till his termination w.e.f. earlier date i.e. 27.06.1986 on abolition of 34 posts of A.D.A. w.e.f. that date. He was reinstated on 15.10.1991 after the litigation regarding his termination became final up to the Hon'ble Supreme Court. He retired on reaching the age of superannuation on 30.04.2008. He subsequently on 21.12.2009 filed the present suit seeking the following three reliefs:-

- (i) *He claimed that the period w.e.f. 04.01.1985 to 07.07.1986 should be counted as a qualifying service for retiral benefits;*
- (ii) *The period of break in service from 07.07.1986 to 15.10.1991 be also counted for qualifying service for retiral benefits and*
- (iii) *He claimed that his periods i.e. Practice as an Advocate i.e. 4 years and 45 days be also calculated as qualifying service period for pension under Rule 4.2-A of the Punjab Civil Service Rules, Volume-II (hereinafter referred as "Service Rules").*

Plaintiff also claimed that he be given the arrears along with interest at the rate of 18 % per annum.

The learned Civil Judge (Jr. Divn.), Sirsa vide judgment and decree dated 26.02.2013 partly decreed the suit of the plaintiff and held that the plaintiff is entitled to counting of the period as an Advocate i.e. 4 years and 45 days as a special addition to his qualifying service towards his pension.

Aggrieved against the judgment and decree passed by the learned trial Court, both the plaintiff and the defendant-State filed their separate appeals. The plaintiff claimed the benefit of his *Ad hoc* service as also on regular basis w.e.f. 04.01.1985 to 07.07.1986; as also the benefit of the period of his break in service from 07.07.1986 till his reinstatement on 15.10.1991 by relying upon Rule 3.17A of the Punjab Civil Services Rules, 1952 (for short “ the Rules”).

The defendant-State challenged the grant of the benefit of 4 years and 45 days towards qualifying service as pension on the ground that the learned lower Court had ignored/misinterpreted the provision of Rule 4.2A of the Rules.

The learned lower Appellate Court / Additional District Judge, Sirsa, vide judgment and decree dated 01.08.2013 dismissed the appeal with costs of the defendant-State, while partly accepting the appeal of the plaintiff by holding that the plaintiff is entitled to get the period of his *Ad hoc* service followed by regular service i.e. from 04.01.1985 to 04.07.1986 to be counted towards qualifying service for the purpose of grant of retiral benefits, however, rejecting the claim of counting of the period of break in service w.e.f. 05.07.1986 to 15.10.1991. Hence, the present two appeals filed by the defendants-State against the decree of dismissal of their appeal and further part acceptance of the 1st appeal of the plaintiff.

Having heard learned State Counsel for the appellants, this Court finds no ground to interfere with the impugned judgments and decrees.

It is not in dispute that the *Ad hoc* service period of the respondent/plaintiff was followed by his regular appointment and there was no break in service, therefore, in the light of Rule 3.17-A of the Punjab Civil Services Rules contained in Chapter 3, Volume-II (as applicable to the State of Haryana), the respondent/plaintiff is entitled to counting of the said period for qualifying service towards pension as the issue is no longer *res integra*. Learned State Counsel for the

appellants has conceded that the said issue is covered by a recent judgment of a coordinate Bench of this Court after considering the previous case law, rendered in **CWP No.15081 of 2011, Shanno Devi Vs. State of Haryana and others, decided on 11.04.2013.**

As regards, the issue regarding grant of benefit of period of 4 years and 45 days as special addition to qualifying service for the pension is concerned, the same has been found to be covered as per the Rule 4.2A (as amended w.e.f. 02.06.2004). It is not in dispute that similar benefit was granted by the Department of Prosecution to number of similarly situated ADAs, as have been noticed in both the impugned judgments and even this issue is squarely covered by the decision of the learned Single Bench judgment of this Court rendered in **Regular Second Appeal No.598 of 2010, State of Haryana and others Vs. Mulakh Raj Mehta, decided on 26.04.2012.** It is further not disputed that the similar issue was also decided against the State and in favour of the employee by another co-ordinate Bench in **RSA No.2911 of 2011, State of Haryana and others Vs. Rajinder Kumar, decided on 21.08.2013.** Therefore, in view of the matter being covered by the aforesaid judgments, no further adjudication is required on the issues.

In view of the above, both the aforesaid appeals are dismissed as they do not raise any law point much less any substantial question of law.

January 15, 2015
Gagan

(JASWANT SINGH)
JUDGE