

In the High Court of Punjab and Haryana at Chandigarh

Regular Second Appeal No. 99 of 2003 (O&M)
Date of Decision: 03.2.2016.

Puran Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Ms. Seema Pasricha, Advocate
for the appellant.

Mr. Neeraj Yadav, AAG, Punjab.

SABINA, J.

Appellant had filed suit for declaration challenging his termination vide order dated 17.12.1999,

Case of the appellant, in brief, was that he was appointed as Class-IV employee with defendant No. 3 vide order dated 22.7.1997. Appellant was transferred to Mansa on 7.10.1997 and he joined his duties on 24.10.1997. Later the appellant was posted at Ahmadpur Animal Husbandry Dispensary. Work and conduct of the appellant was satisfactory. However, services of the appellant were terminated vide order dated 17.12.1999 in an illegal manner.

Defendants, in their written statement, averred that the appellant had been wrongly appointed by the officiating Deputy Director, Gurdaspur along with 79 other persons at his own level without adopting due procedure. One post was advertised by the officiating Deputy Director in the newspaper from Patiala on

9.7.1997. However, 80 persons were appointed against 19 vacant posts on different dates. Appellant had been legally relieved from his duty.

On the pleadings of the parties, following issues were framed by the Trial Court:-

- “1. Whether plaintiff is entitled for declaration as prayed for ? OPP*
- 2. Whether plaintiff is entitled for permanent injunction, as prayed for ? OPP*
- 3. Whether suit of the plaintiff is not maintainable in the present form ? OPD*
- 4. Whether plaintiff has not served statutory notice under section 80 CPC, if so its effect ? OPD*
- 5. Relief.”*

Suit filed by the appellant-plaintiff was dismissed by the Trial Court vide judgment/decreed dated 26.4.2001. Aggrieved against the said judgment and decree, appellant preferred an appeal and the same was dismissed by the First Appellate Court vide judgment/decreed dated 9.1.2002. Hence, the present appeal by appellant-plaintiff.

Learned counsel for the appellant has submitted that in fact, 80 persons were appointed in pursuance to the advertisement dated 9.7.1997 as Class-IV employee. Appellant had challenged his termination by filing the civil suit in question whereas the other similarly situated Class-IV employees had raised industrial disputes. The Labour Court vide separate awards answered the references in favour of the workmen and held that their termination was illegal and ordered that they be reinstated in

service. Aggrieved against the awards passed by the Labour Court, State filed Civil Writ Petitions in this Court. Except in the case of workman Harwinder Singh, the writ petitions filed by the State were dismissed by this Court and Special Leave Petitions filed by the State against the said orders were dismissed by the Apex Court. So far as Harwinder Singh is concerned, CWP No. 5232 of 2010 was allowed by this Court vide order dated 8.4.2010. The award passed by the Labour Court was set aside and it was ordered that workman Harwinder Singh be paid compensation to the tune of ₹ 20,000/-. Harwinder Singh preferred LPA No. 361 of 2011 and the same was allowed by this Court vide order dated 12.10.2011 and the award passed by the Labour Court was maintained. Learned counsel for the appellant has further submitted that since the case of the appellant was similar to his co-employees, who had been ordered to be reinstated by the Labour Court, the impugned order of termination qua the appellant, was also liable to be set aside.

Learned State counsel, on the other hand, has submitted that the Courts below had rightly upheld the termination order passed qua the appellant as he had been appointed by the officiating Deputy Director, although, he had no power to do so.

The substantial question of law that arises in this case is that whether the appellant is entitled to the declaration sought by him in view of the decisions given by the Labour Court as upheld upto the Apex Court qua similarly situated employees.

Admittedly, the appellant was appointed as Class-IV employee along with other 79 workmen. Services of all the 80 employees were terminated on the ground that they had been

illegally appointed by the officiating Deputy Director. It is the further admitted case that some of the workmen had raised industrial disputes challenging their termination whereas the appellant had filed the present suit. If is further admitted case of the parties that the Labour Court had allowed the references sought by the workmen and had ordered their reinstatement in service with some back-wages. Except in the case of workman Harwinder Singh, the writ petition filed by the State challenging the awards passed by the Labour Court were dismissed. Special Leave Petitions were dismissed by the Apex Court against the orders passed by this Court upholding the award of the Labour Court. So far as the case of workman Harwinder Singh is concerned, CWP No. 5232 of 2010 filed by the respondents was allowed by this Court vide order dated 8.4.2010. The award passed by the Labour Court was set aside whereby workman had been ordered to be reinstated in service with continuity thereof and 50% back wages from the date of reference till actual reinstatement. It was ordered that the workman was entitled to receive compensation to the tune of ₹ 20,000/-. However, the said order was set aside in LPA No. 361 of 2011 decided on 20.10.2011 and the award passed by the Labour Court was maintained. It has further transpired during the course of arguments that the workmen who had raised industrial disputes have been reinstated in service. Thus, the workmen, who were similarly situated as the appellant, have been granted the relief of reinstatement with some back wages. Hence, the appellant on the ground of parity is also entitled for the declaration sought by him. The substantial question of law that arises in this case stands answered accordingly.

Hence, this appeal is allowed. Suit filed by the appellant is decreed to the extent that the appellant is ordered to be reinstated in service with continuity of service and 50% back wages.

**(SABINA)
JUDGE**

February 03, 2016
Gurpreet