

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

RSA No.402 of 1990 (O&M)

Date of Decision:27.08.2016

State of Punjab and others

... Appellants

Vs.

Harbhajan Kaur

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Rupam Aggarwal, D.A.G. Punjab.

Mr. N.C. Sahni, Advocate for respondent No.1.

P.B. BAJANTHRI J.

The State has preferred this appeal against the order of the Appellate Court dated 17.10.1989. The respondent was appointed as Librarian on 26.11.1982 whereupon she joined her duties as Librarian on 29.11.1982. Her appointment was conditional one viz., till regular appointment is made or transferred employee is posted. Her services have been relieved on 15.03.1983 without assigning any reason or giving notice to her that she has been relieved as fresh recruitment is taken place or regular appointment and a transfer employee has been posted where the respondent was working.

Thus, the respondent filed a suit for declaration challenging to the dispensing her services from the post of Librarian. The trial Court dismissed the respondent's suit on 15.9.1987. Consequently, respondent preferred an appeal before the Appellate Court and the Appellate Court

allowed her appeal on 17.10.1989. Thus, the State has preferred the present appeal.

Learned counsel for the appellant submitted that the appointment of the respondent itself is conditional one. Therefore, there is no infirmity in dispensing her services from the post of Librarian. It was further submitted that a transfer Librarian has been posted in place of the respondent. Consequently, the respondent's services have been dispensed with reference to the condition imposed in the appointment order. Therefore, there is no infirmity in dispensing the services of the respondent. The Appellate Court has erred in not considering the conditions imposed in the appointment order read with posting of a regular Librarian in place of the respondent which has resulted in dispensing the services of the respondent. Therefore, the Appellate Court order is liable to be set aside.

From the perusal of the record, it is revealed that in the appointment order of the respondent, conditions have been imposed that as and when regular appointment takes place or a transfer Librarian is posted in her place, her services would be dispensed with. Whereas no such material has been made available in the order of relieving of the respondent. The appellants have failed to indicate any reason for relieving the respondent. Further, they have not even issued a notice before dispensing her from services. The reason of posting and transfer a regular Librarian is not forthcoming. Due to passage of time, impracticable to reinstate the respondent as she has completed 60 years of age. Therefore, in the interest of justice, it is necessary to award compensation.

Accordingly, the appellants are directed to pay a compensation of Rs.2,00,000/- within a period of four months from today. If the

compensation is not paid within four months, the appellants shall be liable to pay interest @ 9% per annum.

Disposed of accordingly.

27.08.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No