

RSA No. 2922 of 2011 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 2922 of 2011 (O&M)
Date of Decision : 04.05.2016

The Meham Cooperative Sugar Mills Ltd. ...Appellant

Versus

Sunder Singh and another ...Respondents

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

- 1) *Whether Reporters of the local papers may be allowed to see the judgment?*
- 2) *To be referred to the Reporters or not?*
- 3) *Whether the judgment should be reported in the Digest?*

Present: Mr. S.K. Verma, Advocate for the petitioner.

Mr. Sandeep Singal, Advocate for respondent No. 1.

P.B. Bajanthri, J.(Oral)

The appellant has questioned validity of the judgments and decrees dated 01.12.2009 passed by learned Additional Civil Judge (Sr. Division), Meham and dated 14.12.2010 passed by learned Addl. District and Sessions Judge, Rohtak respectively.

Brief facts of the case are that plaintiff-respondent No. 1, Sunder Singh, was appointed as a Mason on daily wages on 24.01.1994. His services were terminated on 03.12.1994. The plaintiff-respondent No. 1 had questioned the validity of termination order which was set-aside on 17.1.2002 and he was taken back to duty by implementing the award. During

pendency of the termination litigation, one Jai Bhagwan was appointed as a Mason against the post held by plaintiff-respondent No. 1, Sunder Singh, on 13.12.1994.

Feeling aggrieved, respondent No. 1-Sunder Singh filed a suit before the trial Court seeking regularization of his services from 29.04.1998, the date on which Jai Bhagwan's services were regularized. The trial Court decreed the suit in favour of the plaintiff-respondent No. 1. An appeal preferred by defendant No. 1-appellant against the judgment of the trial Court was dismissed by the learned Additional District Judge, Rohtak vide judgment and decree dated 14.12.2010 and the appellant was directed to re-consider the case of the plaintiff-respondent No. 1, Sunder Singh, for regularization of services in accordance with the rules and pass a fresh order within a period of three months. Hence, this regular second appeal.

Learned counsel for the appellant submitted that respondent No. 1 is not entitled to regularization to the post of Mason as he is an illiterate person and for the purpose of appointment as a Mason, a person must be literate pursuant to bye-laws issued in the year 2000. Learned counsel for the appellant further contended that both the trial court as well as appellate court have failed to examine eligibility of respondent No. 1 for the purpose of regularization.

On the other hand, learned counsel for the respondents contended that in the absence of any qualification,

respondent No. 1 was appointed on daily wages basis and, therefore, he is entitled to regularization from the date on which Jai Bhagwan's services were regularized.

I have heard learned counsel for the parties and have perused the record carefully.

Respondent No. 1 was appointed on daily wage basis and his appointment was prior to appointment of Jai Bhagwan. These factual aspects have been taken into consideration by both the Courts below, therefore, finding given by both the Courts below in regularizing the services of respondent No. 1 w.e.f. 29.04.1998, the date on which services of Jai Bhagwan were regularized is in order. When Jai Bhagwan was appointed on 13.12.1994 that is the date much after appointment of respondent No. 1. Hence, no interference by this Court in regular second appeal.

Accordingly, the present appeal is dismissed. The appellant is directed to regularize the service of respondent No. 1 w.e.f. 29.04.1998 the date on which services of Jai Bhagwan were regularized and to grant all consequential benefits on par Jai Bhagwan within a period of three months.

May 04, 2016.
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(P.B. BAJANTHRI)
JUDGE