

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2509 of 2013 (O&M)
Date of Decision:- 27.09.2016.

Baldev Singh, Ex Driver

.....Appellant

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. Amitjot Singh Dhaliwal, Advocate for the appellant.

Mr. Keshav Gupta, AAG, Punjab.

P.B. BAJANTHRI, J. (Oral)

CM No.6752-C of 2013

CM for condonation of delay of 63 days in filing the present appeal is allowed for the reasons stated in the application as well as affidavit.

Delay of 63 days in filing the present appeal stands condoned.

CM No.6753-C of 2013

CM for condonation of delay of 50 days in re-filing the present appeal is allowed for the reasons stated in the application as well as affidavit.

Delay of 50 days in re-filing the present appeal stands

condoned.

CM No.6754-C of 2013

CM for exemption from filing typed copy of grounds of appeal before the ADJ, Moga is allowed for the reasons stated in the application as well as affidavit.

RSA No.2509 of 2013

The appellant has questioned the validity of the Trial Court as well as Appellate Court orders dated 11.8.2010 and 11.8.2012, respectively.

The appellant was appointed as a Driver in the Punjab Roadways on 21.12.1978. He was subjected to disciplinary proceedings which were ended in his termination on 13.2.1989. The respondent-Department sympathetically issued a fresh appointment order as Driver and the appellant continued to discharge the duties as Driver. The appellant is stated to have taken voluntary retirement on 11.5.2002. The same was permitted. After his voluntary retirement, he sought for pensionary benefits. The same was declined for the reasons that he did not fulfill the minimum qualifying service of ten years for pension. For the purpose of granting pension, the service rendered by the appellant for the period from 21.12.1978 to 13.2.1989 cannot be considered for the reasons that his services have been terminated. In the meanwhile, he was placed under suspension for about four years, ten months and two days. Even that cannot be counted for the purpose of qualifying service. The Trial Court while appreciating the various provisions of Punjab Civil Services Rules held that even assuming that suspension period of four years, ten months and two days is taken into consideration, still the same cannot be considered for the reasons that under Rule 4.7 of Punjab Civil Services Rules, Volume-II

except ordinary leave, then that extraordinary leave counted towards increment under Rule 4.9 (b) of Volume-I shall count as service qualifying for pension. Thus, appellant's service during the suspension period could be counted two years, one month and nineteen days and it was earnest leave. Even the said period is added to the service from 1989 to 2002, still appellant do not fulfill the minimum requirement of ten years of qualifying service. Therefore, appellant is not entitled for pension. The Trial Court while appreciating the provisions of law read with the facts of the present case that the appellant do not fulfill the minimum requirement of ten years of qualifying service, rejected the suit. The same was upheld by the Appellate Court. Thus, the appellant has not made out a case so as to claim pension. Therefore, no interference is called for in respect of Trial Court as well as Appellate Court orders.

Appeal stands dismissed.

(P.B. BAJANTHRI)
JUDGE

September 27, 2016.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.