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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

RSA No.2694 of 2013

Date of decision: February 05, 2016

Junas

.....Appellant

Versus

Punjab State and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

**Present:** Mr. R.K. Arya, Advocate  
for the appellant.

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**SABINA, J**

Appellant had filed suit for declaration challenging the action of the defendants, whereby, he was discharged from service.

The case of the appellant, in brief, was that he was appointed as a Sweeper and had worked under defendant No.3 since the year 1980. On 19.03.1997, defendant No.3 had passed an order enhancing the pay of the appellant from ₹80/- to ₹150/- per month w.e.f. 01.03.1997. However, in the month of May 2005, appellant was not paid his salary. Respondent No.3 had not marked the presence of the appellant from the year 1980 and had only paid salary to him upto May 2005.

Defendant No.1 was proceeded *ex parte*.

Defendants No.2 and 3 in their written statement averred that the appellant had worked with them as a part-time Sweeper upto March 2003 and due payment had already

been made to him. Appellant had voluntarily stopped working as a part-time Sweeper w.e.f. March 2003.

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

- “1. Whether the plaintiff is entitled to the declaration as prayed for?OPP
2. Whether the plaintiff is entitled to the relief of mandatory injunction as prayed for?OPP
3. Whether the plaintiff has no locus standi to file the present suit?OPD
4. Whether the suit is not maintainable?OPD
5. Whether the plaintiff has no cause of action to file the present suit?OPD
6. Whether the suit is bad for misjoinder and nonjoinder of necessary parties?OPD
7. Whether the defendants are entitled to special costs as alleged?OPD
8. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 19.05.2011 dismissed the suit of the plaintiff-appellant. The judgment/decreed passed by the trial Court were upheld by the First Appellate Court vide judgment/decreed dated 29.01.2013 in an appeal filed by the plaintiff-appellant. Hence, the present appeal by the appellant-plaintiff.

I have heard heard counsel for the appellant and have gone through the record available on the file carefully.

In the present case, the case of the appellant was that he had worked with the defendant No.3 as a Sweeper

since the year 1980. However, appellant was not paid his salary after May 2005. It is further the case of the appellant that no order had been passed by the defendants, whereby, he was discharged from service. The case of the defendants, on the other hand, was that the appellant had merely worked as a part-time Sweeper upto March 2003. All the dues had been paid to the appellant. After March 2003, appellant had himself left the job. The Courts below after appreciating the record produced by the parties have given a finding of fact that the appellant had served as a part-time employee upto March 2003, whereas, the appellant had failed to establish that he had continued working with the defendants upto May 2005. Appellant had filed the suit in November 2006. It is evident that the appellant who was working as a part-time Sweeper with the defendants had himself left the job after March 2003. Since the appellant was not a regular employee of the defendants, no order discharging him had been passed by the defendants. In the facts and circumstances of the present case, the Courts below rightly held that no relief could be granted to the applicant-plaintiff.

No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

**(SABINA)  
JUDGE**

**February 05, 2016**  
mahavir