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

**RSA-3469-2013 (O&M)
Date of decision: 21.01.2016**

Lachhman Ram

..... Appellant

VERSUS

The Chamrori Primary Agricultural Cooperative Society Ltd. and
others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ashok Kumar Sharma, Advocate
for the appellant.

SABINA, J.

Appellant had filed suit for declaration challenging the termination of his service/abolition of the post of Sweeper (Safai Karta)-cum-Chowkidar.

The case of the appellant in brief was that he was appointed as Sweeper (Safai Karta)-cum-Chowkidar w.e.f. 03.04.1989 with Ghillaur Cooperative Credit and Service Society Limited at a consolidated salary of ₹ 100/- per month, which was later raised from time to time up to ₹ 600/- per month. Appellant was required to work in the society from 5:00 p.m. to 9:00 a.m. Appellant had moved an application under Section 33 (c) 2 of the Industrial Disputes Act 1947 (hereinafter referred as

Act) for payment of wages in accordance with the prescribed rates and had also claimed the arrears of wages. The said application was decided in favour of the appellant vide order dated 31.03.1999 and defendant No.1-Society was directed to pay the arrears of wages from the period w.e.f. 03.04.1989 to 31.08.1992. Defendants were having a grudge against the appellant as he had approached the Court under Section 33(c) 2 of the Act and due to this reason his services were terminated. It was also alleged that during the pendency of the suit the Government had amalgamated three cooperative societies, i.e. the Chillaur, the Silli Kalan and the Chamrori Cooperative Societies known as Chamrori Agriculture Cooperative Society Limited.

The defendants in their written statement averred that the appellant was paid salary from time to time as determined by the Management Committee. Defendant No.1-Society has gone into losses and due to this reason the post of Sweeper (Safair Karta)-cum-Chowkidar was abolished and resolution in this regard was passed. The same was confirmed by the General House of the Society on 01.07.2000.

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

"1. Whether the plaintiff is entitled to the injunction as prayed for? OPP

(1-a) Whether the defendant as violated the order dated 04.07.2000 if so to what effect? OPA

(2-b) Whether the plaintiff is entitled for grant of mandatory injunction ? OPP

1. Whether the suit is not maintainable? OPD

2. Whether the plaintiff is stopped from filing the present suit by his act and conduct ? OPD

3. Whether the jurisdiction of civil Courts is barred? OPD

4. Whether the suit has become infructuous because of the removal of plaintiff from service ? OPD

5. Relief."

Trial Court vide judgment and decree dated 24.04.2009 dismissed the suit of the appellant. The said judgment and decree were up-held by the First Appellate Court vide judgment and decree dated 22.12.2010. Hence, the present appeal by the appellant-plaintiff.

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

In the present case, admittedly, the appellant was working as a Sweeper-cum-Chowkidar with the Society-defendant No.1. The appellant was given three months notice that the post of Sweeper-cum-Chowkidar stood abolished and in consequence thereto his services were no longer required by the Society. The Courts below after appreciating the evidence on

record held that there was no material on record to the effect that the appellant was a permanent employee of the Society. Hence, the appellant could be removed from service by giving him three months notice. Moreover as per notice dated 05.04.2000, the services of the appellant had been dispensed with as the post of Sweeper-cum-Chowkidar stood abolished and in this regard three months notice was given to the appellant. It has also been noticed by the Courts below Ghillaur Cooperative Credit and Service Society Limited was running into losses and had been merged with Chamrori Primary Agriculture Cooperative Society.

Hence, in the facts and circumstances of the present case, the Courts below had rightly dismissed the suit of the appellant-plaintiff. No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

January 21, 2016
Ramandeep Singh

(SABINA)
JUDGE