

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1892 of 2016(O&M)
Date of Decision:- 15.09.2016.

State of Haryana and others

.....Appellants

Versus

Ramphal

.....Respondent

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

Present: Mr. Anil Mehta, DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

CM No.5022-C of 2016

For the reasons stated in the application which is duly supported by affidavit, CM for condonation of delay of 48 days in filing the appeal is allowed.

RSA No.1892 of 2016

1.) Mr. Anurag Jain, Advocate appearing for the respondent-workman submitted that matter be heard in view of the latter development that show cause notice was issued so as to revert the respondent-workman to the post of Bull Attendant from the post of Mechanic and further final order has been passed.

2.) Learned counsel for the appellants submitted that the respondent was appointed as a Bull Attendant on 01.05.1995 in the Pay Scale of ₹ 750-940/-. On 17.6.1998, he was adjusted to the post of Helper

by the then Project Director of State Cattle Project, Hisar. Subsequently, respondent was posted on 19.8.1999. However, pay scale attached to the post of Mechanic was not extended to the respondent-workman. Thus, he has filed original suit before the Trial Court. The learned Trial Court allowed the suit. The appellants-State of Haryana preferred an appeal before the Appellate Court. The Appellate Court confirmed the order of the Trial Court on 21.11.2015. Thus, the present petition has been filed.

3.) Learned counsel for the appellants vehemently contended that respondent-workman neither recruited or appointed to the post of Mechanic. He was posted only to discharge the duties of the post of Mechanic. Therefore, he is not entitled for regularization or absorption to the post of Mechanic. Now the Department has taken necessary action reverting him to the post of Bull Attendant after completing due formalities. Therefore, the question remains is only extending the monetary benefits attached to the post of Mechanic to the respondent-workman from the date he was posted as Mechanic till passing of the reversion order. The respondent-workman was not appointed or promoted to the post of Mechanic. Therefore, he is not entitled for the relief of pay attached to the post of Mechanic.

4.) Per contra, learned counsel for the respondent-workman submitted that if the appellants-Department have extracted the work of Mechanic from the respondent-workman, then the respondent-workman is entitled for monetary benefits attached to the post of Mechanic. It was further submitted that from August, 1999 till date he is working as Mechanic. Therefore, pay attached to the post cannot be denied.

5.) Heard learned counsel for the parties.

6.) Short question for consideration is whether the respondent-

workman is entitled for monetary benefits attached to the post of Mechanic during the period from 19.8.1999 till order of reversion or not. The appellants *suo motu* or at the request of respondent-workman posted the respondent as a Mechanic on 19.8.1999 and extracted the work of Mechanic from the respondent. Consequently, he is entitled for salary attached to the post of Mechanic. His posting as a Mechanic not only be in accordance with the Rules of recruitment governing the post of Mechanic. Rightly or wrongly, the appellants posted the respondent-workman as a Mechanic and extracted work without any shortcoming in discharging the duties of the post of Mechanic. Therefore, the respondent-workman is entitled for monetary benefits attached to the post of Mechanic for the period from 19.8.1999 till order of reversion. The same shall be paid by the appellants within a period of four months from today. The present order would not come in the way of challenging the order of reversion before the Competent Authority/Forum by the respondent.

7.) Accordingly, appeal stands disposed of.

(P.B. BAJANTHRI)
JUDGE

September 15, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.