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

RSA No.1082 of 2015

Date of decision: February 01, 2016

Hira Lal

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.K. Chawla, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration that he was entitled for the post of Ward Attendant instead of Safai Sewak.

The case of the appellant, in brief, was that he was appointed as a Safai Sewak with the defendants on 13.11.1982. Although, the appellant was liable to be given a light duty as he was not physically fit, but the defendants had failed to do so. Junior Safai Sewaks had been given the charge of Ward Attendants ignoring the claim of the appellant.

Defendants in their written statement averred that the appellant was working as a Safai Sewak at Primary Health Centre, Bajakhana and was physically fit. Appellant had not produced any medical certificate to the effect that he was not physically fit. No official junior to the appellant

had been deputed as Ward Attendant.

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

- “1. Whether the plaintiff is entitled for decree of declaration, as prayed for?OPP
2. Whether plaintiff is entitled for decree of mandatory injunction, as prayed for?OPP
3. Whether suit of plaintiff is not maintainable in the present form?OPD
4. Whether plaintiff has no cause of action to file the present suit?OPD
5. Whether no valid notice as required under section 80 CPC has been served upon the defendants?OPD
6. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 01.07.2014 dismissed the suit of the plaintiff-appellant. The said judgment/decreed were upheld in an appeal filed by the plaintiff-appellant by the First Appellate Court vide judgment/decreed dated 04.12.2014. Hence, the present appeal by the appellant.

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

In the present case, admittedly, appellant was working as a Safai Sewak with the defendants since 13.11.1982. Both the Courts below after going through the

evidence on record have held that the appellant had failed to prove on record any Rule or notification on the basis of which he was entitled to be appointed as a Ward Attendant. The plea of the appellant that his juniors had been appointed as a Ward Attendant was not substantiated on record by the appellant. Further the case of the appellant was that due to his physical condition, he was liable to be given a light duty but while appearing in the witness-box, in his cross-examination, he admitted that job of Ward Attendant was more laborious than Sweeper. Appellant had also failed to prove on the file any medical record to establish that he had been advised to be provided light duty. It has been noticed by the Courts below that rather, as per letter dated 10.08.2000, a direction had been given that designation of Class-IV employees be not changed. Thus, the Courts below has rightly held that the suit filed by the appellant was liable to be dismissed.

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

Dismissed.

**(SABINA)
JUDGE**

Februar 01, 2016
mahavir