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

RSA No.3953 of 2015 (O&M)

Date of decision: January 06, 2016

State of Haryana and others

.....Appellants

Versus

Bharat Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Saurabh Mohunta, DAG Haryana.

SABINA, J

Respondent had filed suit for declaration challenging the order dated 27.10.2005, whereby, he was ordered to be regularised/absorbed against the post of Labourer instead of Tractor driver and the order dated 21.06.2006, whereby, appeal filed by the respondent, was dismissed.

The case of the respondent-plaintiff, in brief, was that he was appointed as Tractor driver on 01.03.1994 and his services were terminated w.e.f. 01.10.1996. Respondent raised an industrial dispute and the Labour Court vide its award dated 08.10.1999 ordered the reinstatement of the respondent with continuity of service. In compliance of the said award, respondent was reinstated in service and he joined his duties. Thereafter, respondent made a representation for regularisation of his services as a

driver (Group 'C'). However, vide order dated 27.10.2005, respondent was regularised as a Labourer (Group 'D'). Aggrieved against the said order, respondent preferred an appeal, but the said appeal was dismissed by Chief Conservator of Forests vide order dated 21.06.2006. The case of the respondent-plaintiff further, was that he had been performing the duties of a driver and was therefore, liable to be regularised as a driver instead of a Labourer. Hence, the suit was filed by the respondent-plaintiff.

Appellants-defendants in their written statement averred that respondent-plaintiff was appointed on temporary basis and was paid wages on D.C. rates. The respondent-plaintiff was liable to be regularised as a Labourer. It was further averred that post of driver was lying vacant in the office and in public interest, respondent had worked as a driver. As soon as some driver was appointed through Service Selection Board or on transfer, then the said person would work as a regular driver.

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

- “1. Whether the order dated 27.10.2005 passed by defendant No.4 which has merged in order dated 21.6.200 passed by the defendant No.3 is wrong, illegal, null and void?OPP.
2. Whether the plaintiff is entitled to be regularised/absorbed against the post of Driver w.e.f. 1.10.2003 with all the consequential benefit

along with interest, if so, at what rate?OPP.

3. Whether the suit is not maintainable in its present form?OD.

4. Whether the plaintiff has no cause of action or locus standi to file and maintain the suit?OPD.

5. Relief.”

Trial Court vide judgment/decreedated 16.09.2011 allowed the suit of the respondent-plaintiff. The said judgment/decreed passed by the trial Court were upheld by the First Appellate Court vide judgment/decreed dated 28.11.2013 in an appeal filed by the appellants-defendants. Hence, the present appeal by the appellants-defendants.

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

Parties led their evidence in support of their respective pleas. The Courts below after appreciating the evidence led by the parties on record, have given a finding of fact that the respondent-plaintiff was appointed as a driver vide Exhibit P1 on D.C. rates. Admittedly, services of respondent-plaintiff were terminated and he was ordered to be reinstated by the Labour Court vide award dated 08.10.1999 as the respondent-plaintiff had raised an industrial dispute challenging his termination. In compliance to the award passed by the Labour Court, respondent-plaintiff was reinstated in service. Admittedly, respondent-plaintiff was working as a driver with the appellants-

defendants. Thereafter, respondent-plaintiff represented that his services be regularised. Vide Exhibit P12, the case of the respondent-plaintiff was forwarded for regularisation of his service as a driver. However, vide impugned order dated 27.10.2005, the services of the respondent-plaintiff were regularised as a Labourer. Since the respondent-plaintiff had been performing the duties of a driver with the appellants-defendants, the Courts below rightly decreed the suit of the respondent-plaintiff and ordered that the respondent-plaintiff be absorbed/regularised as a driver w.e.f. 01.10.2003.

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

Dismissed.

**(SABINA)
JUDGE**

January 06, 2016
mahavir