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

**RSA No.5092 of 2015 (O&M)
Date of decision: January 14, 2016**

Smt. Usha Kaushik

.....Appellant

Versus

The Principal, Pt Sitaram Shastri Girls
Senor Secondary School and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Pankaj Jain, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration challenging her termination of services.

The case of the appellant, in brief, was that he was initially appointed by the defendants on 02.04.2007 as Hindi Lecturer and agreement was executed in this regard on 02.04.2007. Thereafter, appellant was again appointed on 01.07.2007, 01.07.2008 and 07.07.2009 for specific periods on specific terms and conditions. Appellant worked with the defendants even after 31.05.2010 and after that letter dated 21.07.2010 was issued to the appellant that she had not noted down the office order in question and had tampered with the school record, which showed disobedience and non-cooperation on her part and disrespect to the Chair. The impugned order was regarding

her extension of appointment from 01.07.2010 onwards. Appellant submitted her reply to the said letter that she had been relieved from duty on 31.05.2010 due to summer vacations and had resumed her duty on 01.07.2010. Appellant had signed the register to mark her presence and had not committed any act of disobedience. Thereafter, letter dated 07.08.2010 was issued alleging therein that the appellant had refused and rejected the offer of re-appointment vide order dated 01.07.2010 by defendant No.1.

Defendants in their written statement admitted the fact that the appellant was appointed on adhoc basis from time to time. Appellant was relieved from her duties on completion of her contract on 31.05.2010. Thereafter, appellant was never appointed by the defendants. Appellant had tried to create evidence of her employment from 01.07.2010 onwards illegally and fraudulently.

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

- “1. Whether the plaintiff is entitled for the relief of declaration along with mandatory injunction as prayed for?OP
2. Whether the suit of the plaintiff is not maintainable in the present form?OPD
3. Whether the plaintiff has no cause of action to file the present suit?OPD
4. Whether the plaintiff has not come to the Court with clean hands and has concealed the

material facts from the Court?OPD

5. Whether this Court has no jurisdiction to try and decide the present suit?OPD

6. Whether the suit is bad for mis-joinder and non-joinder of the necessary parties?OPD

7. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 12.08.2013 decreed the suit of the appellant-plaintiff. The said judgment/decreed passed by the trial Court were set aside by the First Appellate Court vide judgment/decreed dated 18.12.2014 in an appeal filed by the respondents-defendants. 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, appellant was appointed on adhoc basis by the defendants from time to time. As per agreement Exhibit P-5, appellant was issued last appointment on 07.07.2009 for a period of one year and appellant was relieved from duty by the defendants on 31.05.2010. Admittedly, there is no appointment letter in favour of the appellant from 01.07.2010 onwards issued by the defendants. Further, it is an admitted case that the appellant was relieved from her duties on 31.05.2010 as the School had closed on account of summer vacations. Appellant thereafter, marked her presence in the register on

01.07.20120. However, appellant had no locus standi to mark her presence in the register of attendance of Teachers maintained by the defendants on 01.07.2010 as there was no appointment letter issued in her favour allowing her to join her duty w.e.f. 01.07.2010 onwards. In these circumstances, the learned Appellate Court rightly held that the suit of the appellant was liable to be dismissed.

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

Dismissed.

(SABINA)
JUDGE

January 14, 2016
mahavir