

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

RSA No.976 of 2016 (O&M)

Date of Decision.15.07.2016

Prem Kumar Chawla

.....Appellant

Vs.

State of Haryana and others

.....Respondents

Present: Mr. Raghav Sharma, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

-.-

AMIT RAWAL J. (ORAL)

C.M. No.2678-C of 2016

For the reasons stated in the application, delay of 7 days in filing the appeal is condoned.

Application is allowed.

RSA No.976 of 2016 (O&M)

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the claim in the suit for declaration has been dismissed, upholding the order dated 26.10.2009 handing over charge to the lower rank and second order dated 09.11.2009 ordering retrenchment owing to the fact that the Cooperative Society had been run into losses.

Mr. Raghav Sharma, learned counsel for the appellant-plaintiff submits that though the retrenchment order accompanied compensation but the fact remains that the plaintiff is not the junior-most person. There is a categoric admission on behalf of the defendant's witness to this effect and

the same has been ignored by the Courts below. He further submits that the liquidator appointed does not have the power to pass the retrenchment order as per the provisions of Section 107 of the Haryana Co-operative Societies Act, 1984. Rule 5 of the Staff Service Rules says that the plaintiff ought to have been adjusted and given an equal ranking in some other society as the society was run by the funding of the Government. The plaintiff having rendered 33 years of service ought not to have been declared surplus but these facts have not been examined in extenso and thus, resulted in illegality and perversity, much less, infallibility and therefore, urges this Court for setting aside the judgment and decree by formulating the substantial questions of law as drawn in the memorandum of appeal.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force in the submission of the counsel for the appellant, much less, is not able to cut an ice, for, the retrenchment order was accompanied by compensation. It is conceded position on record that the society was running into losses and for the process of winding up of the society, a Liquidator was appointed. Section 107 (2) (h) of the Haryana Co-operative Societies Act, 1984 enables the liquidator to carry on the business of the society for the beneficial winding up of the same. It cannot be said that the provisions of Section 107 does not empower the liquidator to pass any order. There is no evidence brought on record vis-a-vis the appellant-plaintiff being senior than other employees except the bald statement of the defendant's witness. The appellant-plaintiff has to stand on his own legs and discharge the onus, much less, no resolution has been placed on record to prove that the Staff Selection Service Rules have been adopted by the society and are applicable to the

case of appellant-plaintiff.

The findings of the Courts below are based on correct appreciation of facts and does not require any interference, much less, no substantial question of law arises for consideration in the second appeal. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

July 15, 2016
Pankaj*