

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2277 of 1991
Date of decision: 10.03.2017

Same Ram

.... Appellant

VS

State of Haryana & anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Amrit Paul, Advocate
for the appellant.

Mr. R.T.Redhu, DAG, Haryana.

Rajiv Narain Raina, J.(Oral)

The appellant was employed as a Bearer in Medical College, Rohtak. The post was held on substantive basis. He was offered an ad hoc appointment as TB Health Visitor in the Department of T.B. and Chest on 22.11.1983 for a period of six months. The arrangement was continued by extension beyond 29.11.1986. The engagement lasted till April, 1987. On the basis of his ACRs recorded for the period 1986-87, the appellant was reverted to his original post. The ACR dated 24.06.1987 classified the appellant as an average employee but at the same time was assessed as not fit for promotion to the higher post.

Aggrieved employee challenged the reversion order in the original suit but he did not challenge the adverse ACR which led to the reversion. The suit has been dismissed and so has the appeal met the same fate. Hence, the present appeal has been filed.

Learned counsel for the appellant submits that average is not adverse nor it describes a person to be inefficient. He can at best be considered to be an ordinary employee. An ordinary employee cannot be equated with an employee, who has become unfit to be retained in public service or whose efficiency has been impaired to such a degree which warrants to send him home before reaching the age of superannuation. This contention is drawn from the judgment of this Court rendered in ***Ram Kishan vs. State of Haryana, 1994(3) SCT 609***. But I fail to see how this case can help the appellant. Average may not be adverse but the remarks in the ACR were that the appellant was not fit for higher promotion. From these set of facts it is amply clear that the appellant was not considered fit for promotion to the higher post. The argument may have held ground if the plaintiff held the post of TB Health Visitor on substantive basis from where the question of further promotion could have arisen. Unmistakably, the plaintiff was only an ad hoc TB Health Visitor and being unfit for promotion could only mean from Bearer to TB Health Visitor, if there was a channel of promotion, and this is what the reporting officer meant and not promotion from TB Health Visitor to still higher post. Ad hoc service would not confer any legal right for retention on the same post or promotion to a higher post.

I find no apparent error or legal infirmity in the judgment and decree of the Court a quo warranting interference. No substantial question of service law arises in second appeal for consideration, either under Section 100 of Civil Procedure Code, 1908 or Section 41 of the Punjab

Courts Act, 1918 and I would accordingly dismiss the appeal with no order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

10.03.2017
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| 1. Whether speaking/non-speaking? | Yes |
| 2. Whether reportable/non-reportable? | No |