

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

RSA No. 3634 of 2006

Date of Decision:-13.12.2017

Baldeep Singh

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AJAY TEWARI

Present:- Mr. Rakesh Nagpal, Advocate
for the appellant.

Dr. Sushil Gautam, DAG, Haryana.

AJAY TEWARI J.(Oral)

This appeal has been filed against the judgment of the lower Appellate Court partly modifying that of the trial Court and declining the plea of payment of wages to the appellant.

Brief facts are that the appellant was appointed as Chowkidar on 13.7.1992 on adhoc basis, which was subsequently converted into regular service. On 1.7.1997 the appellant submitted one month's notice for his resignation which meant that his resignation would have been accepted w.e.f. 1.8.1997. However, within one week (and before any action was taken to accept the resignation) vide letter dated 8.7.1997 the appellant withdrew his resignation. To be sure he sent a registered notice on 15.7.1997 praying that his resignation may be withdrawn, yet he was not

allowed to join the duty on the pretext that he had resigned, which led him to file the instant suit. The trial Court decreed the suit holding that he was entitled to withdraw his resignation before its acceptance and decreed his claim that he would be continued in service with all consequential benefits. The State filed an appeal wherein the Appellate Court upheld the finding that the appellant was entitled to withdraw his resignation but declined the wages on the ground of 'no work no pay'. The appellant has challenged this by way of present appeal.

Learned counsel has argued that the principle of 'no work no pay' would not be attracted in the case like the present where the action of the respondent was ex-facie and blantly illegal. He has relied upon **Shambhu Murari Sinha vs. Project and Development India 2000(5) SCC 621** where in slightly similar circumstances the Supreme Court upheld the grant of all consequential benefits. The Deputy Advocate General, Haryana is not in a position to cite any contrary judgment.

In these circumstances the appeal is allowed and the judgment and decree of the lower Appellate Court in so far as which is modified that of the trial Court is set aside. The judgment and the decree of the trial Court are upheld.

December 13, 2017
Vijay Asija

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No