

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 103

Regular Second Appeal No.2851 of 2015 (O & M)
Date of Decision: August 09, 2017

Bhag Singh

..... APPELLANT

VERSUS

Warden Youth Hostel, Sangrur & others

..... RESPONDENTS

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Gopal Singh Nahel, Advocate, for the appellant.

. . .

Jaspal Singh, J

The instant regular second appeal has been preferred by plaintiff – Bhag Singh against judgment & decree dated August 05, 2014 passed by the Civil Judge (Senior Division), Sangrur, whereby suit filed by him has been dismissed as well as judgment & decree dated March 05, 2015 passed by the Additional District Judge, Sangrur, whereby appeal filed by him has been dismissed while affirming the decision of trial court.

Brief facts of the case are that plaintiff – appellant Bhag Singh instituted a civil suit for mandatory injunction seeking direction to the defendants to release salary of ₹ 42,372/- @ ₹ 3,852/- per month for the period from May 26, 2010 to May 25, 2011 alongwith interest @ 12% per annum alongwith other allowances. Plaintiff alleged that he was posted as Chowkidar at Youth Hostel near Panchayat Bhawan, Sangrur since

November 20, 2006. In January 2010, plaintiff sent a report to the District Coordinator regarding cutting of trees and misappropriation of wood by Balwinder Kumar, Accountant and Gardener – cum – Sewadar, Youth Hostel, Sangrur. They threatened the plaintiff of dispeiling him out of service. Both of them, under the garb of cleaning of hostel, committed theft of cheque of ₹ 2,250/- on March 06, 2010. On May 26, 2010, B.K. Behal, Incharge and Balwinder Kumar snatched the keys from him without issuing any notice, conducting enquiry and serving him chargesheet. Payment of salary was also refused. Plaintiff was compelled to file a civil suit, wherein a compromise took place between him and defendants on April 19, 2011 to the effect that defendants – respondents would get him join duty and thereafter plaintiff would withdraw the suit. Accordingly, suit was withdrawn on June 02, 2011. Plaintiff was reappointed on April 19, 2011 and claims salary for the period w.e.f. May 26, 2010 to April 19, 2011.

Defendants contested the suit by filing written statements, taking preliminary objections and denied the averments made in the plaint. Replication was also filed by the plaintiff to the written statements. From the pleadings of parties, issues were framed by the trial court. Parties led evidence in support of their respective cases.

After hearing learned counsel for the parties and appreciating the evidence as well as documents, suit filed by the plaintiff – appellant was dismissed vide judgment & decree dated August 05, 2014 passed by the trial court while holding that plaintiff was a daily wager and did not work for the period in question. Feeling aggrieved, plaintiff filed an appeal which was also dismissed by the lower appellate court vide judgment & decree dated March 05, 2015.

The sole point for determination in this case is whether appellant – plaintiff is entitled to the salary for the period w.e.f. May 26, 2010 to May 25, 2011 alongwith interest.

First of all, it is required to be seen whether plaintiff – appellant is a regular employee, which, he has failed to prove by producing any appointment letter or any document or any cogent evidence to show his status as that of a regular employee. Appellant himself admitted that he used to be paid as daily wager on DC rates.

As regards compromise dated April 15, 2011 reduced between B.K. Behal, the then Warden, Youth Hostel, Sangrur, during pendency of an earlier suit filed by the appellant. That suit was instituted for recovery of amount alleged to be due. Moreover, a perusal of the judgment of trial court reveals that B.K. Behal was not having any authority to effect compromise on behalf of the respondents. As such, said compromise is not binding upon the respondents.

Concededly, appellant has not worked for the period May 26, 2010 to April 18, 2011 and he was a daily wager on DC rates. So, in the absence of any appointment letter and following the principle of ‘No work No pay’, this Court is of the considered opinion that appellant is not entitled to salary as he has not worked during the said period. This Court does not find any question of law muchless substantial question of law in the instant appeal.

Dismissed with no order as to costs.

August 09, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No