

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

RSA No.1233 of 2017 (O&M)

Date of decision: 06.03.2017

Municipal Committee, Pataudi

.... Appellant

Vs.

Insar Ahmed and anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sajjan Singh, Advocate
for the appellant.

RAJIV NARAIN RAINA, J. (ORAL)

1. No substantial injustice has been done to the appellant which requires restoration/rectification in second appeal. The rights of the plaintiff-respondent originate from an award of the Labour Court, Gurgaon passed on 29.09.1995. The award was not implemented until the plaintiff approached this Court by way of a writ petition in which directions were issued on 25.05.2002 to the Municipal Committee for implementation of the award. The award attained finality.

2. In his original suit giving rise to this appeal, the plaintiff prayed for declaration and mandatory injunction directing the Municipal Committee, Pataudi to maintain his service book and fix his seniority and pay to him emoluments accordingly. The admitted position is that the plaintiff-respondent was appointed as a Pump Operator on 15.10.1990 in the Water Services division of the appellant Municipal Committee. The appointment was made through resolution passed on 15/24.10.1990, which

was made subject to the approval of the Deputy Commissioner, Gurgaon. There is no evidence regarding whether the Deputy Commissioner, Gurgaon granted the permission in writing or remained silent and abstained from passing orders. In these circumstances there may be a case of deemed sanction arising out of sheer inactivity over long period of time. Both the Courts below are agreed that the plaintiff had a case for declaration and for grant of mandatory injunction and that is how the suit has been decreed qua maintenance of service book, fixing of seniority and providing emoluments accordingly.

3. Learned Addl. District Judge, Gurgaon vide judgment and decree dated 06.12.2016 has correctly restored the workman to the same status which he held when his services were terminated.

4. I find no error or legal infirmity in the judgment and decree of the lower appellate court warranting interference. No substantial question of law arises for consideration either under Section 100 of Civil Procedure Code, 1908 or Section 41 of the Punjab Courts Act, 1918 and would accordingly dismiss the appeal with no order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

06.03.2017

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1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No