

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

**RSA No.4760 of 2016(O&M)
Date of Decision: 13.11.2018**

Chhinder Pal

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. B.S.Mittal, Advocate for the appellant.

Mr.Siddharth Sanwaria, DAG, Haryana.

SUDIP AHLUWALIA J. (ORAL)

C.M.No.12309-C-2016

This is an application seeking condonation of delay of 13 days in re-filing the appeal.

Heard.

For the reasons mentioned in the application, delay of 13 days in re-filing the appeal, is condoned.

CM stands disposed off.

RSA No.4760 of 2016(O&M)

1. The appellant is the plaintiff, who had originally filed a suit for declaration and mandatory injunction seeking regularization of his services on completion of requisite period of 240 days, after having originally joined as a Security Guard under the concerned officers of respondents-authorities on 22.09.1989.

2. His aforesaid suit was decreed, but such judgment and decree were set aside by the Ld. Lower Appellate Court vide its impugned judgment dated 15.01.2016.

3. Reliance of the appellant is on the various decisions passed by the

various benches of this Court in respect of similarly situated employees. Particular reliance is placed upon the decision in RSA No.797 of 2009(O&M) titled as 'State of Haryana through Collector, Sirsa and others Vs. Suresh Kumar', whereby a similar decision of the Lower Appellate Court was set aside by a co-ordinate Bench of this Court after observing, *inter-alia*, :-

“The Courts while decreeing the suit of the plaintiff, as stated above have concurrently found that since the other daily wagers who had joined as Helpers in Haryana Roadways were given the benefit of regularization of their services on completion of 240 days, the plaintiff could not be discriminated against in the matter of regularization of his services. Although it was found that the said employees earned this benefit after approaching this Court and the Hon'ble Supreme Court, but it was rightly observed while placing reliance upon a judgment of the Hon'ble Supreme Court in State of Haryana and another Vs. Dharam Singh in Special Leave to Appeal (Civil) CC 3815 of 2000 decided on 02.03.2001, and two judgments of this Court in Smt. Om Pati v. State of Haryana and others, 2007(1) Service Cases Today 294 and in Civil Writ Petition No.1437 of 1998 (Ishwar Singh V. State of Haryana and others) decided on 13.7.2005, that the defendant-department was duly bound to extend the same benefit to the plaintiff without forcing him to knock the doors of the Court. Nothing has been shown that the findings of fact so recorded by the Courts below suffer from any infirmity or are contrary to the record. No question of law, muchless substantial, arises in the present appeal.

Consequently, the appeal being without any merit is hereby dismissed in limine.”

4. It further transpires that a Special Leave to Appeal (Civil) CC 889/2010, preferred on behalf of the State against the above judgment was subsequently dismissed by the Hon'ble Supreme Court on 29.01.2010. The case of the appellant is, therefore, squarely covered by the ratio of the aforesaid

judgment quoted in RSA No.797 of 2009.

5. In all fairness, Ld. Counsel appearing for the State concedes that the aforesaid decisions which have attained finality after dismissal of the SLP by the Hon'ble Supreme Court would also undoubtedly cover the appellant's case.

6. In these circumstances, this Court has no hesitation in setting aside the decision of the Ld. Lower Appellate Court and restore the judgment and decree passed in favour of the appellant by the Ld. Trial Court.

7. Appeal allowed.

13.11.2018
Anjal

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No