

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

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Regular Second Appeal No.2509 of 2019 (O&M)
Date of Decision: July 12th, 2019

Executive Officer, Municipal Corporation, Rohtak and another

...Appellants

Versus

Mangat

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Dr. Neha Awasthi, Advocate
for the applicants-appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 30.07.2018 passed by the Civil Judge (Junior Division), Rohtak, whereby the suit for declaration filed by the respondent-plaintiff that he is entitled to the salary for the month of February 2016 as also the retiral benefits i.e. commuted pension, amount of leave encashment, gratuity, GIS, GPR etc. and for a mandatory injunction for release of the same, stands decreed, appeal against which preferred by the appellants-defendants has been dismissed by the District Judge, Rohtak, on 01.03.2019.

2. As per the pleadings of the respondent-plaintiff, he was appointed as Sweeper on 13.10.1971 in Municipal Corporation, Rohtak, and retired from service on 28.02.2016 but he has not been paid salary for the month of February 2016 nor has any retiral benefits been released. Appellants took a stand in the civil suit that the respondent-plaintiff is not the person, who had been appointed as Sweeper, rather it was one Sangat Ram, who was the brother of the respondent, who was appointed as a Sweeper. He having been appointed in the All India Radio at Rohtak, left the job and Mangat-respondent herein started working in his place. It is

asserted that there has been connivance on the part of the officials in making the respondent-plaintiff continue in service of Sweeper, to which he was not even appointed. Counsel for the appellants thus contends that the appellants-defendants have rightly denied the respondent the benefit of salary for the month of February 2016 as also the retiral benefits.

3. On a query put by this Court as to whether the services of the respondent-plaintiff have ever been terminated or any action taken against him for such impersonation, which is alleged to have been committed by him, she has very fairly stated that no such action has been taken by the appellants. However, she has asserted that the appointment letter of the respondent would indicate that it was not Mangat, who was appointed as a Sweeper but Sangant Ram, who was the brother of the respondent.

4. All the documents which have been produced on record indicate that the respondent had been working with the appellants continuously. No objection whatsoever has been taken ever or any question asked with regard to the identity of the respondent by the appellants-defendants. Since Mangat has been regularised in service which is an admitted fact, he being a regular employee, cannot be denied the salary for the month of February 2016 as he had worked and consequently the retiral benefits, especially in the light of the fact that neither his services have been terminated nor any departmental action initiated against him.

5. The judgments and decree passed by the Courts below are based upon proper appreciation of the pleadings and the evidence on record, which do not call for any interference by this Court in the present appeal.

6. There are concurrent findings recorded by the Courts below and there is nothing on record to indicate that interference by this Court is called

for in the present case.

7. The appeal, therefore, stands dismissed.

8. In the light of the dismissal of the appeal, the applications for stay i.e. CM No.8045-C of 2019 and CM No.6804-C of 2019, also stand dismissed.

July 12th, 2019

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No