

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

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**CM-6532-C-2017 &
CM-6533-C-2017
& RSA-2633-2017**

Date of decision: 15.01.2019

DEEP CHAND

...APPELLANT

VS.

HARYANA STATE AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Bhisham Kumar Majoka, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-6533-C-2017

Prayer in this application is for condonation of delay of 71 days
in re-filing the appeal.

For the reasons mentioned in the application, the present
application is allowed. Delay of 71 days in re-filing the appeal stands
condoned.

CM-6532-C-2017

Prayer in this application is for condonation of delay of 78 days
in filing the appeal.

For the reasons mentioned in the application, which is duly
supported by the affidavit of the applicant-appellant, the present application
is allowed. Delay of 78 days in filing the appeal stands condoned.

RSA-2633-2017

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division) Gurgaon dated 11.03.2015 whereby the suit for declaration preferred by the appellant-plaintiff to the effect that the date of regularization of his services be preponed from 01.01.1994 to 07.11.1982, has been dismissed, appeal against which preferred by the appellant-plaintiff has also been dismissed by the Additional District Judge, Gurgaon on 08.04.2016.

It is the contention of the learned counsel for the appellant that the services of the appellant were required to be regularized on completion of 240 days of regular satisfactory service and as per the Instructions issued by the Government from time to time. He contends that the persons, who were appointed on contract/ad-hoc basis after the appointment of the appellant, have been regularized on completion of 240 days whereas the services of the appellant have been regularized after completion of 5 years. He, thus, contends that the Courts below have failed to appreciate the fact that the persons junior to the appellant have been regularized prior to the appellant-plaintiff and, therefore, the appellant-plaintiff is entitled to the declaration, as prayed for.

I have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the impugned judgments.

The Courts below, on the basis of the evidence which has been led by the parties and on appreciation of the position in law, have proceeded to decide the claim of the appellant for declaration. Earlier the appellant had approached this Court by filing CWP No. 986 of 1997. The said writ

petition was disposed of vide order dated 22.01.1997 wherein directions were issued to the respondents-defendants to consider and dispose of the representation of the appellant-plaintiff vide which he had claimed regularization of his services from the due date. In pursuance to the said order, the services of the appellant were regularized with effect from the due date vide order dated 08.05.1997. As per the said order, the appellant was granted the benefits as per the Government Instructions. Had the appellant got any grievance he would have immediately approached the authorities or the Court. Another aspect is that the appellant-plaintiff had not mentioned the order dated 08.05.1997 in his suit and he has also not mentioned that he had earlier filed a suit for seeking correction of the date of regularization, which was dismissed by the Civil Judge (Junior Division) Gurgaon vide judgment and decree dated 21.12.1996. Thus, prima-facie the appellant-plaintiff has not approached the Court with clean hands. The order, as passed by the respondents, has not been challenged and on this ground also, the relief, as has been claimed by the appellant-plaintiff, cannot be granted to him. He has not been able to establish, as a matter of fact, that the person, who was appointed subsequent to the appellant, was junior to him as it has been asserted that the seniority of the employees is maintained Depot wise.

There are concurrent findings recorded by the Courts below which do not call for interference by this Court in this appeal. Finding no merit in the present appeal, the same, therefore, stands dismissed.

January 15, 2019*pj***(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No