

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

**RSA No.9623 of 2018 (O&M)
Date of Decision : 20.11.2019**

Rajesh Kumar

.....Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr.Jaivir S. Chandail, Advocate for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the appellant-plaintiff was dismissed by the trial Court vide judgment and decree dated 08.08.2017 and as even the appeal preferred against the said decree failed and was dismissed on 09.04.2018, he is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff prayed for mandatory injunction requiring the defendants to provide him employment.

In brief, the case set out by him was that he had moved an application on 30.04.2013 to the Deputy Commissioner, Fatehabad, to assign him a job at D.C. rate. His application was forwarded by defendant No.1 to defendant No.2, who in turn sent him to defendant No.3. Whereafter, defendant No.3 assured him a job of Chowkidar through service provider on D.C. rate. Plaintiff continued to visit defendant No.3 but to no avail, thus the suit.

In the written statement filed by defendant No.3, it was denied if plaintiff had ever approached the answering defendant with any letter of defendant No.2. Even otherwise, there was no vacant post of Chowkidar in the godown of Haryana Agro Industries Corporation. Upon receiving notice in the present suit the matter was inquired into and it transpired that plaintiff and his wife sat on a dharna in front of Mini Secretariat along with their children and they had even approached the Deputy Commissioner, Fatehabad, for providing financial assistance. Upon this, a residential accommodation was provided to the plaintiff and his family in the Community Centre at Shakti Nagar, Fatehabad, which they never vacated. Resultantly, a suit in this regard was pending between the plaintiff and the Municipal Council. That apart they even caused obstruction in the official duties of the officers of the department. Even otherwise, if a post falls vacant then it has to be filled in terms of the norms and instructions of the Government, after due publication, thus, the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that wife of the plaintiff i.e. Murti Devi (PW1) conceded in her cross-examination that her husband had not filled any form for employment as Chowkidar in Haryana Agro Industries Corporation. Further, her husband was in jail at the time when her statement was recorded. Likewise, Ravinder Kumar DW1, the District Manager of Haryana Agro Industries, Fatehabad, testified in his deposition that neither plaintiff Rajesh nor his wife ever approached his office for employment against the post of Chowkidar. Still further, vide judgments

Exhibits D1, D2 and D5, plaintiff Rajesh was convicted and sentenced for the period already undergone. Further, charge sheets Ex.D3 and D4 proved that charges under Sections 283, 188, 189 and 506 IPC and under Sections 353, 186 and 506 IPC had been framed against him and his wife Murti. Even the letter dated 01.05.2013 (Mark-A) would not vest the plaintiff with any legally enforceable right for appointment as Chowkidar in the Corporation. That being so, the only and the inevitable conclusion that could be reached: the suit was liable to be dismissed.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the Courts below. The appeal being devoid of merit is accordingly dismissed.

20.11.2019

*Manoj Bhutani***(ARUN PALLI)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No