

LPA No. 22 of 2019 (O&M)

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

**LPA No. 22 of 2019 (O&M)
Date of decision: 08.03.2019**

Bir Singh

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Atul Yadav, Advocate
for the appellant.

ARUN PALLI, J. (ORAL)

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 13.11.2018, passed by the learned Single Judge, vide which the writ petition preferred by the appellant, requiring the respondent authorities to count the ad hoc service, i.e. w.e.f. 20.11.1984 to 1.1.1991 rendered by him, for the purposes of pension, has since been dismissed.

The facts that are required to be noticed are limited.

The appellant joined service as Driver on 20.11.1984 on ad hoc basis and continued as such till 11.3.1986, when his services were brought to an end. Upon an industrial dispute being raised, the Industrial Tribunal, Faridabad, vide award dated 22.12.1988, held termination of the services of the appellant as illegal and ordered his reinstatement with continuity of service and full back wages. The case set out by the appellant has been that

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in compliance to the award; the respondents, on the pretext that no post of Driver was available, rather compelled him to furnish an affidavit that he was willing to join as Peon. Resultantly, he joined as such on 1.1.1991 and retired from service on attaining the age of superannuation on 30.4.2011. The limited grievance of the appellant, as indicated above, is that his ad hoc service be counted for pensionary benefits. But, as his claim was declined by the authorities vide order dated 16.7.2015 (Annexure P-9), he filed a writ petition, referred to above.

We have heard learned counsel for the appellant and perused the records.

Undoubtedly, the appellant had joined service on 20.11.1984, but as Peon-cum-Tractor Driver. The specific case set out by the authorities has been that he was appointed on daily wages at DC rates. And, though he served from 21.11.1984 to 11.3.1986, but with breaks. Further, the initial appointment of the appellant as Driver was neither against a sanctioned post nor any sanction was accorded by the competent authority qua his appointment. In fact, the post of the Driver being class-III post, the competent authority to appoint a Driver was the Board, whereas, the appellant was recruited by the then Chairman of the Market Committee. Thus, the learned Single Judge concluded that service rendered by the appellant, for the period indicated above, could not be counted for pension. Besides this, the factor that indeed dissuades us to interfere in the matter is that in compliance to the award dated 22.12.1988, the appellant was reinstated as Peon on 1.1.1991. Whereafter, he served for 20 years before he retired from service on 30.4.2011. Nothing was brought on record to show that during all these years, he ever made any such demand or even raised a

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grievance that the affidavit furnished by him to join as Peon was obtained under coercion and/or duress. Concededly, all the pensionary and other benefits, he was entitled to, were duly received by him on his retirement. Thus, it appears that dispute racked up by him, years after his retirement was nothing but an afterthought. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusion rendered by the learned Single Judge was either contrary to the record or suffered from any material illegality.

In the wake of the above, the appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

March 08, 2019
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: Y