

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2020

CORAM: THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

S.A.No.401 of 2020

M.Balakrishnan

... Appellant / Appellant / Plaintiff

Vs.

St.Antony Hospital
Rep by its Administrator
Madhavaram High Road
Chennai - 60.

... Respondent / Respondent / Defendant

Prayer : Second Appeal filed under Section 100 of Cr.P.C., praying to allow the above Second Appeal with costs throughout by setting aside the judgment and decree dated 30.09.2019 made in A.S.No.54 of 2013 by the learned Subordinate Judge at Ponneri, confirming the judgment and decree dated 30.10.2013 made in O.S.No.122 of 2010 by the learned District Munsif Judge at Tiruvottriyur and consequently allow the suit.

For Appellant : Mr.C.P.Sivamohan

ORDER

The plaintiff in O.S.No.122 of 2010, whose suit for declaration that the show cause notice dated 15.07.2010 as null and void, to declare that he is a permanent employee of the defendant institution and for permanent injunction restraining the defendant, their men, agents and subordinates from terminating him from the services etc., was decreed in part by the trial court granting the reliefs of declaration alone upon its confirmation by the lower appellate court has come up with this second appeal.

2.The suit was decreed in part, granting the following reliefs:

(i) declaring that the show cause notice 15.07.2020 as null and void;

(ii) declaring that the plaintiff is the permanent employee of the defendant institution.

However, as far as the plaintiff's prayer seeking permanent injunction, the suit was dismissed.

3. The relief of permanent injunction was negated by the Courts on the ground that since he has already been terminated, there cannot be a permanent injunction. In the meantime, pending appeal, the appellant has also attained the age of superannuation. Therefore, the question of granting permanent injunction restraining the respondent/defendant from terminating the services of the appellant/plaintiff has become impossible.

4 The trial Court as well as the first Appellate Court have held that it will be open for the appellant to seek damages, if any.

5. In the light of the above findings and that fact that the appellant has now attained the age of superannuation, I do not find any question of law or much less the substantial question of law arising in this appeal. Admittedly, the relief of declaration granted to the appellant has not been questioned by the respondent-Management, hence, it would go without saying that the appellant would be entitled to file a suit for damages, if he is so advised, in view of the declaratory relief that has been granted to the plaintiff.

6. In the result, the second appeal is dismissed confirming the judgment and decree dated 30.09.2019 made in A.S.No.54 of 2013 by the learned Subordinate Judge at Ponneri. No costs.

-s/d-
Assistant Registrar
true Copy
Sub-Assistant Registrar

ds

To:

1.The Sub Judge
Ponneri.

2.The District Munsif
Thiruvottriyur.

3.The Section Officer
VR Section
High Court, Madras.

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