

106 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2037 of 2018 (O&M)
Date of Decision : 03.03.2020

Dr. Shashi Jindal

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.D. Sharma, Advocate
for the appellant.

ALKA SARIN, J (ORAL)

1. The present regular second appeal has been preferred by the plaintiff-appellant against the judgment and decree dated 01.07.2015 and 01.08.2017, whereby, the suit filed under Section 34 of the Specific Relief Act, 1963 for declaration to the effect that the order bearing endorsement No.771-75, dated 12.03.2009 passed by the defendant-respondent No.2- Chief Executive Officer, Zila Parishad, Moga, terminating her services was bad in law and that she was entitled to be re-instated, has been dismissed.

2. In brief, the facts are that the plaintiff-appellant had joined service on 18.09.2007 and for the said purpose had entered into a service contract with defendant-respondent No.2. The plaintiff-appellant is a qualified M.B.B.S Doctor. The agreement was valid for a period of three years w.e.f. 18.09.2007. However, the same could be extended on yearly basis keeping in view the achievements and satisfactory performance of the plaintiff-appellant. As per the agreement itself, the plaintiff-appellant

as well as the defendant-respondent No.2 (Zila Parishad) could terminate the said agreement by giving three months notice in writing to the plaintiff-appellant. The defendant-respondent No.2 also had the right under the contract to terminate the services by giving one months notice.

3. Vide order dated 12.03.2009, the services of the plaintiff-appellant were terminated. The plaintiff-appellant filed a civil suit challenging the said order dated 12.03.2009 as being illegal, void and arbitrary. The defendants-respondents filed their written statement wherein, it was stated that the plaintiff-appellant had been making willful default in attending her duties and that she had been remaining absent and had allowed the Pharmacist to attend to the patients in her absence. It was further stated that on 10.03.2009, the plaintiff-appellant was found absent from her service and one Sarabjit Singh was present, who was attending to the patients. The said Sarabjit Singh, on enquiry, stated that the plaintiff-appellant normally remains absent from duty twice a week and she made entries in the relevant OPD register as proxy. It was also the stand taken by the defendant-respondents that plaintiff-appellant did not deposit the stock stores records and OPD fee in the month of February, 2009.

4. On the basis of the pleadings of the parties and the evidence on the record, the suit of the plaintiff-appellant was dismissed in view of the fact that the conduct of the plaintiff-appellant i.e remaining absent from her duty without sanctioned leave, and hence the order of termination was just and proper. Against the said judgment and decree dated 01.07.2015, the plaintiff-appellant filed an appeal before the lower

Appellate Court, which was also dismissed. Hence, the present regular second appeal.

5. I have heard the learned counsel for the plaintiff-appellant. It has been contended by learned counsel for the plaintiff-appellant that no enquiry was conducted nor was any show cause notice issued to the plaintiff-appellant before terminating her services. However, it has not been denied that the plaintiff-appellant was only a contractual employee and there would be no question of her re-instatement in the service in the present case. It is further contended that the order being stigmatic, damages should have been granted to the plaintiff-appellant.

6. Perusal of the paper book reveals that the services of the plaintiff-appellant were purely contractual and on the basis that she was found absent from her duty as well as the fact that she was not found in the premises attending to the patients, the plaintiff-appellant was dismissed from service. Being a contractual employee, there is absolutely no question of re-instatement. However, it was open to the plaintiff-appellant to seek for damages which she chose not to do so.

7. In view of the fact that the services of plaintiff-appellant were only contractual, I do not find any merit in the present regular second appeal, hence the same is dismissed.

(ALKA SARIN)
JUDGE

03.03.2020
Manpreet

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No

