

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 5701 of 2018 (O&M)

Date of Decision: 19.2.2020

Saroj Rani

...Appellant

Vs.

Principal Government Girls Secondary School Mansa and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rishu Garg, Advocate
for the appellant.

RAJIV NARAIN RAINA, J. (Oral)

1. The period of service is far too brief (not more than 3 months) to seriously consider relief of reinstatement in a temporary assignment. The appellant served as a Cook in a Scheme called KGBV (Kasturba Gandhi Balika Vidyalaya Scheme) with State Government sharing expenses with the Central Government to run the Scheme in schools. She was temporarily appointed by a Resolution dated 11.7.2013 and her services were orally terminated on 14.10.2013. The slot was not advertised to public. The appellant did not have any direct relationship of employer or employee with the State or the Central Government so as to claim regularization against one or the other.

2. The plaintiff appellant partly succeeded before the trial Court claiming reinstatement to service. The Civil Judge (Senior Division) Mansa accepted the view propounded by the plaintiff that the termination was abrupt, illegal and against the principles of natural

justice and as a result of such a conclusion, she was directed to be reinstated to the 5th respondent/Aaswak/Pasvak/School Management Committee, Government Girls School, Mansa. However, the suit was dismissed against the other respondent Nos. 1 to 4 who were the Principal of the School, Punjab School Education Board and the District Education Officer, Mansa. This is in confirmation of the fact that her claim against the State failed. The trial Court read paragraph No.5.0, Clauses (vii), (viii) and (ix) thereof and these Clauses stipulated that all the staff related with KGBV hostels was a purely stop gap arrangement and Pasavk/Sasvak Committee was given absolute rights to appoint and terminate the employment. Ex. D2 is the resolution dated 5.7.2013 appointing the appellant on the basis of which she joined on 11.7.2013. The resolution stipulates that temporary services could be terminated without issuing any show-cause notice and accordingly she could be dealt with in terms of her appointment letter which was the contract of employment.

3. The Lower Appellate Court sustained the judgment and decree of the trial Court as ineffective against respondent Nos. 1 to 4 but has set aside the judgment and decree of the trial Court by judgment dated 13.7.2018 passed by the court of the learned Additional District Judge, Mansa. The First Appellate Court has taken the view that the plaintiff did not challenge the termination. The suit was for mandatory injunction without seeking declaration of invalidity of termination. This

was the major flaw in the plaint on which the plaintiff failed in toto.

4. Mr. Garg argues for her that this finding is not correct and is not sustainable in the eyes of law as the termination was oral and there was nothing tangible to challenge in the suit except seek a mere declaration without consequential relief. In this notion, he is mistaken. Even if the termination was oral, it could be challenged on permissible grounds, if available to her, as an oral termination is as good as any and bears the same result of cessation of service. This is just like oral terminations are challenged everyday in the Labour Court and declared illegal and void in appropriate cases. A case of oral termination can well be entertained in writ jurisdiction and relief granted if the court is satisfied that termination is illegal and invalid and order reinstatement in service. The other reasons assigned in the first appeal are not necessary to be go into for the purposes of the present second appeal as they do not occasion a substantial question of law for determination under section 100 CPC or section 41 of the Punjab Courts Act, 1918

5. In view of the foregoing discussion, there appears to be no life in this appeal and the same is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

19.2.2020

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Whether speaking/reasoned : *Yes*
Whether reportable : *Yes/No*