

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

1. RSA 1112 of 1994 (O&M)
Date of Decision: December 20, 2021

State of Punjab and others ...Appellants

Versus

Darshan Singh

... Respondent

2. RSA 1404 of 1994 (O&M)

State of Punjab and others ...Appellants

Versus

Harbans Lal

...Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Navdeep Chhabra, Dy. A.G. Punjab
for the appellant/State.

Mr. Amaninderpreet Singh, Advocate
for the respondent.

FATEH DEEP SINGH, J. (Oral)

The two above detailed regular second appeals though are by the two different persons one by Darshan Singh and second by Harbans Lal but having been decided by the same very Court of learned District Judge, Faridkot by way of separate judgments of even date dated 25.09.1993 but on

account of close consanguinity of the facts and law point are being disposed off together for the sake of brevity.

The common facts are that both the plaintiffs claim to be engaged initially as “**Work Munshi**” with the department of P.W.D. (B&R) Punjab. Plaintiff Darshan Singh claims to have worked from 1974 up to October 1987 whereas Harbans Lal worked as such from January 1985 to December 1989. Both claimed that their services were satisfactory, continuous and to the best of their ability and entire satisfaction of the defendant. It is on the premise that after one year their services have been dispensed with and thereby they filed suit for declaration seeking to hold that termination of their service from the post of “**Work Munshi**” was illegal, null and void and liable to be set-aside.

The tersely worded response of the defendants was of total denial and claimed that respective plaintiffs were engaged purely on daily wages and at no point of time continuously worked for the period they claimed and there were

interruptions and disruptions in their engagements were not continuous and, therefore, they cannot claim relief in question.

The trial Court in the suit of Darshan Singh framed the following issues:-

1. *Whether the order terminating services of the plaintiff is null and void? OPP.*
2. *Whether the suit is not maintainable because notice under Section 80 CPC has not been served? OPD.*
3. *Whether the suit is time barred? OPD.*
4. *Whether the Civil Court has no jurisdiction to try the suit? OPD.*
5. *Relief.*

and in the suit filed by Harbans Lal, following issues were framed:-

1. *Whether the order of termination of the services of the plaintiff is null and void? OPP.*
2. *Whether the notice under Section 80 CPC is not valid? OPD.*
3. *Relief.*

Darshan Singh plaintiff examined himself as PW1

and supported his claim and defendants examined Jalaur Singh as DW1, Varinder Singh as DW2 and Buta Singh as DW3.

Harbans Lal plaintiff himself stepped into the witness box as PW1 and deposed as per his claim whereas defendants examined Atma Singh as DW1, Harbilas Sharma as DW2, Bharat Bhushan as DW3 and Nirmal Singh as DW4.

The Court of learned Sub Judge 11nd Class Gidderbaha dismissed both the suits.

The unsuccessful plaintiffs preferred civil appeals and which stood allowed by the different judgments but of even dates dated 25.09.1993 setting aside the judgment of the lower Court.

Heard Mr. Navdeep Chhabra, Dy. A.G. Punjab for the appellant/State and Mr.Amaninderpreet Singh, Advocate for the respondent and perused the records.

In the light of admitted legal proposition as has been laid down in '**Kirodi (since deceased) through his L.R. Vs. Ram Parkash and others**' Civil Appeal No. 4988 of 2019;

SLP(C) No. 11527 of 2019 decided on 10.05.2019, the Court is not supposed to frame substantial question of law in view of the provisions enshrined under Section 41 of the Punjab Courts Act, 1918 which has its application to the States of Punjab and Haryana.

From the arguments of the two sides, the evidence led on the record, it is sufficiently clear that both the plaintiffs were engaged purely as daily wagers and the testimonies of the defendants witnesses who were officials of the sub-division where the plaintiffs were employed have clearly stated that the engagement of the plaintiffs were purely temporary and were never made regular being for a particular work charge and upon completion of that very work their engagement stood dispensed with and again were reengaged for fresh work. There is not even a single documentary evidence led by the plaintiffs upon whom the onus of principal issue No. 1 lay to establish that they were engaged on regular basis or worked continuously and uninterruptedly for the period as claimed by them.

The learned trial Court has categorically held that none of the plaintiffs completed 240 days of continuous work. In **State of Haryana Vs. Piara Singh, 1992(3) S.C.T. 201**, the Apex Court in three bench view have considered at length the claim of regularization of service viz-a-viz *ad hoc* employees work charged, temporary and casual workman and para No. 19 of which is reproduced as under:-

“19. The High Court has also directed that all those employees who fall within the definition of "workmen" contained in the Industrial Disputes Act will also be entitled to regularization on par with the work-charged employees in whose case it is directed that they should be regularised on completing five years of service in Punjab and four years of service in Haryana. This direction is given in favour of those casual labour and daily wagers who fall within the definition of workmen. In so far as work-charged employees, daily wage workers

and casual labourers who do not fall within the definition of workmen are concerned, the High Court had directed their regularization on completion of one year's service. We find this direction as untenable as the direction in the case of adhoc/temporary employees. In so far as the persons belonging to the above categories and who fall within the definition of Workmen are concerned, the terms in which the direction has been given by the High Court cannot be sustained. While we agree that persons belonging to these categories continuing over a number of years have a right to claim regularization and the authorities are under an obligation to consider their case for regularization in a fair manner, keeping in view the principles enunciated by this court, the blanket direction given cannot be sustained. We need not, however, pursue this discussion in view of the

orders of the Government of Haryana contained in the letter dated 6.4.1990 which provide for regularization of these persons on completion of ten years. We shall presently notice the contents of the said letter. In view of the same, no further directions are called for at this stage. The Government of Punjab, of course, does not appear to have issued any such orders governing these categories. Accordingly, there shall be a direction to the Government of Punjab to verify the vacancy position in the categories of daily wagers and casual labour and frame a scheme of absorption in a fair and just manner providing for regularization of these persons, having regard to their length of service and other relevant conditions. As many persons as possible shall be absorbed. The scheme shall be framed within six months from today”.

and it has been brought to the notice of this Court that even in spite of directions by the Apex Court, the State of Punjab has failed to frame a scheme for absorption in a fair and just manner for such employees who are working against adhocism. The learned first appellate Court has fell into an error by taking a lackadaisical approach into the matter which is well illustrated from the impugned findings in para 7 of the judgment. Since there is no permanent engagement of the then plaintiffs by the then defendants, therefore, question of this Court issuing directions for their regularization would be preposterous proposition as claimed by the respondents side. It is not the intent of law and the exercise of the judicial powers by this Court in right way to say it so. The impugned judgments are certainly illegal and needs to be set aside by way of acceptance of the instant appeals.

Both the appeals stands allowed.

December 20, 2021

amit rana

(FATEH DEEP SINGH)

JUDGE

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