

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

CR-2807-2017 (O&M)

Date of decision: 18.05.2022

State of Haryana through District Collector Rewari and others

....Petitioners

Versus

Hira Lal

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harsh Vardhan, AAG, Haryana

Mr. G.P.Singh, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

This is a case of a poor employee being troubled by the officers of the State of Haryana. The plaintiff (respondent) has been made to litigate in the courts repeatedly. As per his case, he initially filed a petition in the High Court with a prayer to direct the State of Haryana to regularize his services. He disclosed that he is working as a Water Pump Operator-II. During the pendency of the writ petition by an interim order the court restrained the officers of the State of Haryana from terminating his services. Unfortunately, the services of the plaintiff were terminated forcing the plaintiff to file contempt petition. During the pendency of the contempt petition, the plaintiff was taken back in the service. Still, his services were not regularised on the ground that as per the policy, he was not in service. He filed a civil suit claiming that his termination of services, in violation of the interim order passed by the High Court, was illegal and therefore, he will be deemed to be in service

and therefore, he is entitled for regularization. In the aforesaid suit, he stated that he is working as Mechanical Helper. The trial court framed the following issues:-

“1. Whether the termination order dated 2.5.1992 issued against the plaintiff is illegal, null and void as alleged? OPP.

2. Whether the plaintiff is entitled for all the benefits from the period w.e.f. 2.5.1992 to 20.10.1993 on the grounds as alleged? OPP

3. Whether the plaintiff is entitled for regularization of his service w.e.f. 31.3.1993 as alleged? OPP.

4. Whether the plaintiff is entitled for fixation of pay, increments and all consequential benefits and arrears along with interest, if so to what effect? OPP.

5. Whether the suit is barred by limitation? OPD.

6. Whether the suit of the plaintiff is not maintainable in the present form? OPD.

7. Whether the suit is bad for mis-joinder of cause of action? OPD.

8. Relief.”

The court decreed the suit while observing that the services of the plaintiff are entitled to be regularised with effect from 31st March 1993. Appeal filed by the State of Haryana before the Additional District Judge was dismissed on 9th August 2005. Subsequently, the services of the plaintiff were regularised vide order dated 6 June, 2006 on the post of Mechanical Helper. He again filed a suit claiming that he is entitled to regularisation as a Water Pump Operator-II, the post against which he was working throughout his life. The aforesaid suit filed on 17th September 2009 was decreed on 27 January, 2012. In the aforesaid suit Veera Devi, Assistant in the office of Sub Divisional Officer appeared and deposed that the plaintiff was appointed as a Water Pump

Operator-II on 20th September 1987. The officials of the State of Haryana were still not satisfied. They filed a review application contending that the plaintiff has played fraud by filing the subsequent suit. The aforesaid review application was dismissed. Thereafter, in execution petition the officials filed objections, which were dismissed. That is how the present revision petition has been filed.

Learned counsel representing the appellant vehemently contends that subsequent suit filed by the plaintiff was the result of fraud. He claims that in the first suit, the plaintiff claimed that he was working on the post of Mechanical Helper whereas in the subsequent suit he claims to be a Water Pump Operator-II. He further submits that while filing of the subsequent suit, the plaintiff did not disclose this fact.

Per contra, learned counsel representing the plaintiff contents that the subsequent suit is on a separate/different cause of action. He submits that the aforesaid cause of action accrued only on 6th June, 2006 when he was regularised on a the post of Mechanical Helper. He further submits that the plaintiff cannot file a fresh suit on same cause of action again. The plaintiff has also wrongly stated that he has not filed any previous suit.

It is evident that the cause of action for filing the second suit filed by the plaintiff arises from a different cause of action which in fact accrued after the decision of the first suit. Secondly in the previous suit, there was no issue with regard to the post held by the plaintiff. Furthermore as per the official record produced by Veena Rani, the plaintiff was appointed and continued to work on the post of Water

Pump Operator II. While filing the writ petition, the petitioner had claimed that he is working on the post of Water Pump Operator-II. The plaintiff was required to make a declaration with regard to the pendency of the suit on the same cause of action. It is clear that the second suit was on a different cause of action.

Hence, no ground to interfere with the order passed by the Executing Court is made out. Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

18.05.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE