

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 2680 of 2019 (O&M)****Date of Decision: 14.09.2023**

Jag Singh

... Appellant(s)

Versus

Punjab State Power Corporation Limited and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Peeush Gagneja, Advocate
for the appellant(s).

Anil Kshetarpal, J.**CM-7404-C-2019**

1. For the reasons stated in the application, the same is allowed and delay of 13 days in refiling the appeal is condoned.

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2. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

3. The correctness of the concurrent findings of facts, arrived at by both the Courts below, is assailed in this second appeal filed by the plaintiff. The plaintiff's suit for the grant of decree of declaration that he is entitled to be treated as regular Lower Divisional Clerk w.e.f. 27.10.1987, has been dismissed by both the Courts below.

4. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed. The appellant was appointed as a Lower Divisional Clerk on 24.09.1973 for a period of six months. Subsequently, the period was extended. However, on 20.01.1975, his services were terminated. He sought the reference to the Labour Court which was allowed and he was ordered to be reinstated by the Labour Court on 09.08.1999. Subsequently, he was reinstated in the service. Vide order dated 03.11.1999, he was regularized in service w.e.f. 01.02.1996. He retired from the service on 30.11.2012. Whereas he filed the suit on 16.08.2013. Both the Courts below have held that the appellant's services were regularized as per the relevant policy instructions of the respondent Corporation, therefore, there is no substance in the case.

5. Heard the learned counsel representing the appellant at length and with their able assistance, perused the paper-book.

6. The learned counsel representing the appellant contends that the moment the appellant was reinstated, with continuity of service and full back wages vide award dated 09.08.1989, he would be deemed to have been regularized. The learned counsel submits that the appellant would be deemed to have been continued in service from the year 1987.

7. This Court has considered the submissions. The appellant was ordered to be reinstated in service as a temporary employee on the award passed by the Labour Court. The Labour Court did not hold that the appellant is entitled to be regularized in service on reinstatement. The respondent-Corporation has regularized the services of the appellant on the basis of the policy instructions which were applicable at the relevant time.

There is no challenge to the correctness of the same. Moreover, the services of the appellant were regularized vide order dated 03.11.1999, whereas he filed the suit after his retirement on 30.11.2012.

8. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

**(Anil Kshetarpal)
Judge**

September 14, 2023
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No