

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

120

2023:PHHC:148465

RSA-2885-2019

Date of decision: 22.11.2023

RANBIR SINGH

..Appellant

Versus

THE HARYANA STATE TRANSPORT

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jasmer Singh Rozera, Advocate
for the appellant.

Mr. J.S. Pannu, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the correctness of the concurrent findings of fact arrived at by the Courts below is assailed by the plaintiff.
2. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.
3. The appellant claims to have been appointed as a bus driver on 15.03.1990. He met with an accident when he was coming to his workplace from his home. He remained admitted in Sir Ganga Ram Hospital, Delhi for sufficiently long time. The respondent after coming to a conclusion that the appellant is not entitled to resume his duties as a bus driver, offered him an alternative post of *chowkidar* on 30.12.2012. However, the appellant did not respond to the offer. Ultimately, the services of the appellant were dispensed with on 31.12.2012 after the appellant failed to submit fitness certificate despite repeated communications. In fact, the appellant was compulsorily retired from service.
4. He filed a suit on 31.08.2015 for mandatory injunction directing the respondent to reinstate him in service.

5. The defendant while contesting the suit claims that the appellant despite repeated communications to get himself medically examined from Post Graduate Institute of Medical Sciences, Rohtak, the appellant failed to comply with the same. Thereafter, on 01.10.2012, a show cause notice was issued to the appellant while observing that failure to comply with the directions would entail order of compulsory retirement. However, the appellant failed to submit the medical certificate.

6. Both the Courts on appreciation of evidence have dismissed the suit.

7. The learned counsel representing the appellant submits that as per Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as the '1995 Act'), the appellant could not be discriminated. He submits that the respondent is bound to take him back in service. First proviso to Section 47 of the 1995 Act itself provides that if the employee is not fit to resume the same duties then alternative post shall be offered to him in the same institution. By virtue of this provision, the aforesaid offer was made.

8. It is also evident that the appellant though claimed that he is not in a position to get fitness certificate from Post Graduate Institute of Medical Sciences, Rohtak, as he is hospitalized in Sir Ganga Ram Hospital, Delhi, is also factually incorrect because of perusal of Ex.PW6/A to Ex.PW6/G. It becomes evident that the plaintiff did not remain admitted in the hospital continuously. Moreover, the plaintiff was granted more than sufficient opportunities to produce the fitness certificate. When the plaintiff appeared in evidence, he admitted that he was asked by the department to produce

the certificate but he did not deposit the same. He also admitted that he did not reply to the notice dated 01.10.2012. Moreover, the plaintiff filed the suit after a period of nearly three years from the date his services were dispensed with.

9. In view of the aforesaid facts and discussion, no ground to interfere is made out.

10. Dismissed accordingly.

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

November 22nd, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*