

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 1062 of 1992

Date of Decision: 28.11.2023

Vijay Pal

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Gurinder Pal Singh, Advocate
for the appellant(s).

Mr. Jaspal Singh Pannu, Assistant Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

1. On 08.11.2023, this Court has passed the following order:-

*“This appeal has been filed by the plaintiff. He filed a suit for grant of decree of declaration that he is entitled to reinstatement into service and the consequential benefits. As per the findings of fact arrived at by the courts below, the appellant was appointed on 02.01.1986 on daily wages. The courts have found that he was not permitted to continue with effect from 01.08.1988. The suit filed by the plaintiff was decreed to the effect that the action of the defendants in not taking the plaintiff in service from 01.08.1988 is wrong, illegal and void in terms of para 33, sub-para 6 of the Division Bench judgment of the High Court in **Piara Singh vs. The State of Haryana and others, 1989 (1) RSJ, 465.***

The State of Haryana filed an appeal. The First Appellate Court has held that though the appellant was forced out of service, however, there is nothing to show that the plaintiff had reported himself for duty on 01.08.1988. The plaintiff kept mum and served notice only on 21.12.1988 after a lapse of four months. Thus, the First Appellate Court ordered that the plaintiff shall be reinstated in service as and when he re-joins.

The learned counsel representing the parties are ad-idem that pursuant to the order passed by the First Appellate Court on 03.09.1991, the appellant came back and re-joined the service. His services were regularized with effect from the year 1996 and has since retired.

The learned counsel representing the appellant submits that the decree passed by the trial Court is required to be restored as there is concurrent findings of fact to the effect that the appellant was forced out to service.

The attention of the learned counsel representing the appellant has been drawn to the fact that there is a finding in paragraph 10 of the judgment of the First Appellate Court to the effect that the appellant has kept mum and served notice only after a lapse of four months. His attention was also drawn to the fact that the appellant was on a daily wage basis.

The learned counsel representing the parties pray for a short accommodation to further assist the Court.

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2. Once again, the learned counsel representing the parties have been heard at length.

3. The learned counsel representing the appellant contends that the appellant is required to be regularized in service w.e.f. 01.04.1993. The learned counsel submits that once the appellant was not permitted to continue even on the daily wages, as a result, he cannot be punished for remaining silent for a period of four months.

4. On the other hand, the learned counsel representing the respondents has produced the pension payment order which shows that the petitioner's service from 02.01.1986, has been acknowledged for the purpose of calculating his retiral dues.

5. The appellant was taken back into service as per the judgment of the First Appellate court w.e.f. 01.11.1991. His services were regularized w.e.f. 31.03.1996. He retired on attaining the age of superannuation on 31.03.2022. The appellant was a daily wage employee. His engagement was made on a daily wage basis.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned order passed by the First Appellate Court. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

November 28, 2023**"DK"**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No