

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

RSA No.1540 of 1992(O&M)

Date of Order:11.09.2023

The Municipal Corporation, Jalandhar**.Appellant****Versus****Karnail Singh****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL****Present: None for the appellant.**

**Mr. H.S.Grewal, Advocate
for the respondent.**

ANIL KSHETARPAL, J

1. Though the appellant-Municipal Corporation is not represented, however, with the able assistance of the learned counsel representing the respondent, this court has gone through the paper book as well as the lower court record.

2. The respondent filed a suit for grant of decree of declaration to the effect that the termination of his service as a conductor is illegal, null and void and therefore, he is entitled to reinstatement with full back wages.

3. It has come on record that the plaintiff (respondent herein) was intermediately appointed as a conductor on the temporary basis against leave vacancy/temporary vacancy. He worked with breaks from May 1981 to November, 1983. There were several complaints that were filed against him, hence his contract for service was not renewed.

4. The trial court dismissed the suit, however, the learned first appellate court reversed the judgment and decree passed by the trial court on the ground that the respondent has completed 240 days of service in a

calendar year and therefore he is entitled to be treated as a regular employee.

5. The appellate court relied upon the judgment passed by the Division Bench in **Piara Singh vs. The State of Haryana and others, 1989 (1) RSJ, 465**

6. This court has considered the submissions of the learned counsel representing the respondent.

7. It is evident that the respondent was never appointed on a regular basis. The respondent has not produced the order appointing him on regular basis. In such circumstances, his services could be dispensed with in accordance with the terms of appointment. It has also come on record that the respondent was appointed initially on a temporary basis against a leave vacancy in place of Sh. Ranjit Singh, Conductor, who was under suspension. His services were dispensed with on 17.08.1981. Thereafter, he was again appointed against a temporary vacancy on 19.08.1981 and worked till 15.11.1981. Subsequently, he was again appointed on a temporary vacancy from 17.11.1981 to 13.02.1982. Again on the ground of suspension of a conductor, the respondent worked with breaks, upto November, 1982. Moreover, in view of the judgment passed by the 5 Judge Bench in State of **Secretary, State of Karnataka vs. Uma Devi and others, (2006) 4 SCC 1**, the respondent cannot claim regularization as a matter of right on completion of 240 days. Even the judgment of this Court passed in **Piara Singh's case (supra)** was reversed by the Supreme Court in **State of Haryana vs. Piara Singh, 1992 AIR (SC) 2130.**

8. Hence, for the reasons stated above, the appeal is allowed. The judgment and decree passed by the First Appellate Court is set aside and that

of the trial Court is restored.

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

September 11, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO