

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

RSA NO.1618 of 1992 (O&M)

Date of Order:10.10.2023

Haryana State Electricity Board and others**.Appellants****Versus****Dasrath Kumar****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Arvind Seth, Advocate
for the appellants.**

**Mr. Kartikey Chaudhary, Advocate
for the respondent.**

ANIL KSHETARPAL, J

1. The correctness of the concurrent findings of fact arrived at by the courts below is challenged by the Haryana State Electricity Board (defendants) in this second appeal.

2. On 13.08.1992 while admitting the appeal, the operation of the impugned judgment was ordered to be stayed. The respondent herein filed a suit for grant of decree of declaration that he is a regular employee of the respondent-Board as he has worked for continuously more than 240 days. He also prayed for direction to the respondents to pay the wages.

3. While contesting the suit, the defendants (appellants) claimed that the respondent has been working with the Board intermittently on a temporary basis and he is not entitled to be regularized in service.

4. Both the courts below decreed the suit on the ground that the plaintiff is entitled to be regularised as he has completed the period of 240 days during last calendar year and certain employees who ere juniors to the

plaintiff have been retained in service. Even the order of retrenchment of the respondent was set aside on the ground that the same has been passed in violation of Section 25 of the Industrial Disputes Act, 1947.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

6. The learned counsel representing the appellant contends that the Division Bench judgment of the High Court in **Piara Singh vs. The State of Haryana and others, 1989 (1) RSJ, 465** has been reversed by the Supreme Court in **State of Haryana vs. Piara Singh, 1992 AIR (SC) 2130**.

He submits that the respondent is not in service for a period of nearly 40 years. He further submits that the civil court has no jurisdiction to decide the case on the basis of the alleged violation of the provisions of the Industrial Disputes Act, 1947 and the respondent's remedy was under the Industrial Disputes Act, 1947

7. On the other hand the learned counsel representing the respondent submits that the respondent has remained out of service during all this while and now no effective relief can be granted to the respondent.

8. This court has considered the submissions of the learned counsel representing the parties.

9. In view of the judgment passed by the Supreme Court in **State of Haryana vs. Piara Singh, 1992 AIR (SC) 2130**, the conclusion drawn by the courts below that the respondent is entitled to the regularization of service is not sustainable. Moreover, the appropriate remedy for the respondent was to seek reference under the Industrial Disputes Act if he was aggrieved of alleged illegal retrenchment from service. Furthermore, nearly 40 years have elapsed on account of the injunction granted and the

respondent has not been permitted to join. In the ordinary course, he would have attained the age of superannuation.

10. Keeping in view the aforesaid facts and discussion, the judgments and decrees passed by the courts below are set aside while relegating the respondent to the alternative remedy of Industrial Disputes Act, if so advised.

11. Disposed of, accordingly.

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

October 10, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO