

2023:PHHC:102439

**1373 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-301-1993 (O&M)
Date of decision: 08.08.2023

The State of Haryana and others

..Appellants

Versus

Joginder Pal

.Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. J.S.Pannu, AAG, Haryana
for the appellants

ANIL KSHETARPAL, J (Oral)

1. The correctness of the concurrent findings of fact arrived at by the courts below is assailed by the defendants in this Regular Second Appeal. The plaintiff's suit (respondent herein) for the grant of decree of declaration to the effect that he will be deemed to be a Punjabi Teacher w.e.f 01.12.1983 till re-joining on 19.12.1984. Also, he is entitled to pay fixation again on the said post in accordance with the revised pay scale, has been decreed by the courts below. At one stage, the services of the respondent were dispensed with on the ground that he did not fulfill the requisite qualification for the post of teacher. However, in CWP-579-1984 filed by the respondent, the High Court declared that the respondent was eligible and correctly appointed as the Punjabi Teacher. Pursuant to the judgment of the High Court on 30.11.1983, the respondent was reinstated in service on 19.12.1984. Thus, both the courts held that the respondent was entitled to the consequential benefits as he was kept out of service on account of the wrong order passed by the State.

2. Heard the learned counsel representing the State and with his able assistance perused the paperbook and the requisitioned record.
3. Learned counsel representing the appellant contends that the respondent is not entitled to salary from 01.12.1983 to 19.12.1984 on the principle of no work no pay. He submits that the respondent never performed his duties during this time and therefore, he cannot be held entitled to the salary for the aforesaid period.
4. This Court has considered submissions made by the learned counsel representing the appellants. The First Appellate Court has relied upon the Full Bench judgment in the case of **Radha Ram vs. Municipal Committee, Barnala, 1983 PLR 21**, while rejecting the appeal filed by the State and has held that once the relief of setting aside or quashing of the order of termination has been granted or a separate decree has been passed to the similar effect, it necessarily follows that an employee continues to be in service in the eyes of law and as a necessary consequence thereof, would be entitled to all the emoluments flowing from that status.
5. Learned counsel representing the appellants has failed to draw the attention of the Court to any decision stating a divergent view. Hence, no ground to interfere is made out.
6. Dismissed.
7. All the pending miscellaneous applications, if any, are also disposed of.

08.08.2023

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Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No

(ANIL KSHETARPAL)
JUDGE