

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

103

2023:PHHC:136379

**RSA-195-1992(O&M)
Date of decision: 19.10.2023**

JAGDISH PARSHAD

..Appellant

Versus

STATE OF HARYANA & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Mittal, Advocate
for the appellant.

Ms. Vibha Tewari, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

1. In this second appeal, the appellant (plaintiff) prays for setting aside the detailed judgment passed by the learned First Appellate Court while reversing the judgment and decree passed by the trial Court. In substance, the plaintiff filed a suit for grant of decree of declaration restraining the defendant from terminating his services pursuant to the notice dated 11.03.1985 (Ex.P-12) and continue payment of salary. The plaintiff was appointed on work charge basis in the year 1982.

2. As noticed, his services were dispensed with on 11.03.1985 as he did not fulfill the requirement of policy instructions issued by the government for regularization of service as he was not appointed through employment exchange. Initially, he filed a suit without serving notice under Section 80 of the Code of Civil Procedure, 1908, which was dismissed. After sending notice under Section 80 of the Code of Civil Procedure, 1908, the plaintiff filed a fresh suit. In this suit, the defence of the State was struck off. The trial Court decreed the suit, however, the First Appellate Court reversed the judgment on the following two grounds:-

- i. The fresh suit was not maintainable;
- ii. The plaintiff was never employed through employment exchange, which was the mandatory requirement of the policy instruction.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. The learned counsel representing the appellant submits that the services of the appellant could not be dispensed with without following the principle of natural justice.

5. On a Court question, the learned counsel representing the appellant admits that the appellant was subsequently appointed as a peon in the government service in the year 1996 and has retired in the year 2014. It is evident that the appellant was never appointed on a regular basis. His services were not dispensed with as a measure of punishment. Since, he was not found eligible for regularization therefore his services were dispensed with. Now, a period of 38 years have elapsed. Moreover, he was fortunate to get government employment in the year 1996 and has retired.

6. In view of the aforesaid, no ground to interfere is made out.

7. Dismissed accordingly.

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

October 19th, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*