

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(207-A)

RSA-552-1992

Date of Decision : January 19, 2023

Janta Singh

.. Appellant

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. K.B. Raheja, Advocate, for the appellant.

Mr. Gurvinder Singh, Assistant Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

Present Regular Second Appeal has been filed against the judgment of the trial Court dated 04.08.1989 by which, the trial Court only allowed the benefit of service for a period of three months for which the appellant-plaintiff was appointed as well as the appeal filed against the said judgment was dismissed by the lower Appellate Court vide order dated 25.11.1991.

Learned counsel for the appellant argues that in the present case, though the appointment of the appellant-plaintiff to the post of Warden was for a fixed term of three months which was purely temporary but he was relieved from service prior to the completion of three months and the said order was punitive in nature.

Further argument raised is that once the juniors of the appellant-plaintiff were retained, he was also entitled to continue in service.

I have heard learned counsel for the parties and have gone

through the record with their able assistance.

It is a conceded fact that the appellant-plaintiff was appointed for a period of fixed tenure of three months starting from 05.02.1986 to 04.05.1986 and the appellant was relieved from service on 03.05.1986 on the basis of a termination order passed on 02.05.1986. No evidence has been brought to the notice of this Court that the order passed by the respondent was stigmatic or punitive in nature in any manner. Rather the tenure of the plaintiff was a fixed tenure and the same was coming to an end on 04.05.1986 concededly and appellant retired from service on 03.05.1986 only.

Once, the appointment of a fixed tenure and the relieving of an employee is simpliciter in view of the conditions of the employment, on completion of the tenure, it cannot be said that the order passed by the authorities concerned relieving an employee on the completion of the term, was stigmatic or punitive in nature. Nothing has been shown to this Court that the order terminating the service of the appellant was stigmatic in any manner or was punitive in nature keeping in view the language of the said order. Hence, the claim of the appellant that the order was punitive in nature, cannot be accepted.

Though, the said order dated 02.05.1986 has already been set aside by the trial Court vide order dated 14.08.1989 but only relief granted to the appellant was that he will be treated in service for a tenure for which he was appointed i.e. from 05.02.1986 to 04.05.1986. Out of the said tenure, it is conceded that only one day was left for completion of the tenure when the impugned order was passed. Hence, keeping in view the relief granted by the trial Court, despite setting aside of the said termination order,

no effective relief has come in favour of the appellant-plaintiff especially when the appellant has already died.

Further argument of the learned counsel for the appellant is that the juniors were retained in service, hence, he was also entitled to continue in service.

Nothing has been pointed out from the evidence on record with regard to the employees, who are claimed to be juniors and have continued in service. Learned counsel for the appellant has not been able to point out the name of any employee from the evidence which has come on record that the said employee was junior to the appellant-plaintiff and was allowed to continue in service.

In the absence of any such evidence, the claim that the juniors were retained in service, cannot be allowed.

Even otherwise, the appointment of the appellant was for a fixed tenure and once the tenure was not extended, the appellant was liable to be relieved. Even if anybody who was appointed after the appellant but his tenure was continuing and the said employee is continuing in service, will not give a right to the appellant to continue in service.

Keeping in view the fact that no perversity has been pointed out, no interference is called for by this Court in the present appeal.

Dismissed.

January 19, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No