

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

103

2023:PHHC:138125

RSA-777-1992

Date of decision: 30.10.2023

DAYA NAND

..Appellant

Versus

STATE OF HARYANA & ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gurinder Pal Singh, Advocate
for the appellant.

Mr. J.S. Pannu, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

1. In this second appeal, the correctness of the judgment passed by the First Appellate Court is questioned by the plaintiff. His suit for grant of decree of declaration dispensing with his services is illegal, null and void being in violation of provisions of Industrial Disputes Act, 1947 (hereinafter referred to as the '1947 Act') was decreed by the trial Court, however, the same was reversed by the First Appellate Court. He served the department on the daily wage basis from 05.05.1988 to 10.01.1989 as beldar. The trial Court decreed the suit on the following two grounds:-

- i. In view of the Division Bench judgment passed in **Piara Singh Vs. State of Haryana 1989 (1) PLR 396**, the services of the plaintiff would be deemed to have been regularized.
- ii. The provisions of Section 25(f) of the 1947 Act were violated while dispensing with the plaintiff's services.

2. The First Appellate Court reversed the judgment and decree passed by the trial Court on the ground that the civil Court has no jurisdiction and the plaintiff may avail the remedy under the 1947 Act.

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

4. The learned counsel representing the appellant fairly admits that in view of the judgment passed by the Supreme Court in *State of Haryana Vs. Piara Singh, (1992) 4 SCC 118*, he cannot claim that the plaintiff's services were deemed to have been regularized on completion of 240 days on daily wages service. However, he submits that the order of termination of service was bad in law because at that time, the Division Bench judgment was applicable.

5. The Courts while interpreting the law grants declaration. Unless a judgment is made application from prospective date, the judgment applies irrespective of the date of institution of the suit. The judgment passed by the Division Bench has been found to be erroneous. The same has been overruled. Now, at this stage, the judgment passed by the Division Bench would be deemed to have been incorrectly decided from the very beginning.

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

7. Dismissed accordingly.

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

October 30th, 2023

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No