

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

RSA No.512 of 1991(O&M)

Date of Order:12.10.2023

Kamlesh Kumar (deceased) through LRs**.Appellant****Versus****State of Punjab and another****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL****Present: Mr. Ankit Kharbanda, Advocate
for the appellant.****Mr. Vikas Arora, AAG, Punjab****ANIL KSHETARPAL, J**

1. The plaintiff assails the correctness of the judgment and decree passed by the first appellate court. During the pendency of the first appeal, the appellant was reinstated in service and has already retired on attaining the age of superannuation. The only dispute which remains is with respect to the entitlement of the appellant to the amount of back wages from October 1984 till October 1989.

2. The appellant was appointed on a temporary basis as a driver. While he was driving the bus, it met with an accident. The services of the appellant were terminated vide order dated 20.10.1984, which was the subject matter of challenge before the civil court. The court of first instance set aside the termination order as it was found stigmatic, although the plaintiff failed to prove that he was the regular employee of the State of Punjab. The First Appellate Court disposed of the appeal while granting an opportunity to the punishing authority to pass a fresh order after giving an opportunity of hearing to the plaintiff. Thereafter, this regular second appeal

was filed by the appellant and it has remained pending all these years. The State of Punjab has not passed any fresh order however, as already noticed, he was reinstated in service.

3. In these circumstances, the only question that arises for consideration is with regard to the entitlement of the appellant to the back wages for the aforesaid period he has never worked.

4. In the considered opinion of this Court, the appellant is not entitled to the back wages for the following reasons:-

(1) The appellant has failed to prove that he was ever appointed on a regular basis.

(2) The appellant has already been taken back in service and the order retrenching him from service was set aside only on a technical ground.

(3) He has not worked for the aforesaid period.

4. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

5. Dismissed, accordingly.

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

October 12, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO