

RA-RS-33-2023 in
RSA-3831-2008

2023:PHHC:075016

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(113)

RA-RS-33-2023 in
RSA-3831-2008
Date of Decision : 24.05.2023

Promila Arora

...Appellant

Versus

Municipal Corporation, Ambala City and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashwani Talwar, Advocate for the appellant.

Harsimran Singh Sethi J. (Oral)

1. The present review application has been filed so as to review the order dated 15.03.2023 (Annexure A-1) by which the regular second appeal was decided.

2. The review petition has been filed on the ground that while passing the order dated 15.03.2023, the Court has not noticed that whether or not the services of the appellant-plaintiff were regular in nature, the said fact has not come on record so as to consider whether the respondents were under obligation to hold an enquiry or not into the allegation alleged against the appellant-plaintiff.

3. Learned counsel for the appellant-plaintiff submits that the service of the appellant-plaintiff was regular, hence, the order dated 15.03.2023 (Annexure A-1) passed by this Court needs to be reviewed.

4. On being asked, as to what was the main ground in the appeal, which was raised to challenge the judgment and decree of the lower appellate court, learned counsel for the appellant-plaintiff conceded that the main ground raised in the present appeal was with regard to the finding recorded by the lower appellate court that in the enquiry proceedings conducted against the appellant-plaintiff as per law and after affording due opportunity to defend was given to her and she had cross-examined all the witnesses, due to which fact, no interference was called for in the punishment imposed against the appellant-plaintiff.

5. The said question has already been decided by this Court upholding the findings of the lower appellate court as learned counsel for the appellant-plaintiff had not been able to rebut the findings recorded by the lower appellate court that due opportunity was given to the appellant-plaintiff during the disciplinary proceedings conducted and the civil court cannot sit in appeal over the decision of the departmental proceedings and the judgment of the lower appellate court was upheld.

6. It was only as a passing remark that this Court had noticed that keeping in view the status of the appellant-plaintiff with the respondents as to whether, she was a regular employee or a temporary employee, it was noticed that nothing has come on record to show that the appellant-plaintiff was even a regular employee so as to demand conduct of disciplinary proceedings on the allegation.

7. Even if it is assumed that the respondent-plaintiff was a permanent employee, still findings recorded by the lower appellate court

**RA-RS-33-2023 in
RSA-3831-2008**

2023:PHHC:075016

3

as well as by this Court while passing the order dated 15.03.2023 that due enquiry was conducted into the allegation alleged against the appellant-plaintiff and the order of punishment was passed, was held to be perfectly valid and legal will need no modification, hence, the review of the order sought is liable to be rejected and is accordingly rejected.

May 24, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No