

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

(253)

RSA-295-2017

Date of Decision : 17.05.2023

Suberamanni and others**...Appellants****Versus****Haryana Development Authority and others****...Respondents*****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI***

Present: Mr. Ravi Sharma, Advocate with
Mr. Ravinder Kumar Panchal, Advocate for the appellants.

Mr. Sanjeev Majra, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

1. The present regular second appeal has been filed challenging the judgments and decrees of the courts below by which the suit filed by the appellants-plaintiffs for issuance of a direction to the respondents-defendants to allow them to join service along with the arrears of salary and interest, has been dismissed.

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

3. The appellants-plaintiffs were appointed as Beldars in 1989 and their services were regularized in 1993 but later on, they claimed that they were not allowed to perform the duties of the post, hence, they filed a civil suit with a prayer that the respondents are under an obligation to treat the appellants-plaintiffs in service with all consequential benefits.

4. In reply to the averments made in the suit, the respondents-defendants mentioned that initially the appellants-plaintiffs were appointed as Beldars in the year 1989 for the development of Mansa Devi Complex, Sector-4, Panchkula and their services were regularized in the year 1993 and keeping in view the Policy framed by the Government of Haryana, they were transferred to Faridabad on which post, they never joined and since 1994, they were not in service, whereas the suit has been filed in the year 2013 i.e. after a period of 19 years with the plea that they should be treated in service with all consequential benefits, hence, the prayer of the appellants-plaintiffs is liable to be rejected.

5. The trial court keeping in view the evidence, which came on record, held that as the appellants-plaintiffs abandoned their job by not joining at the transferred place at Faridabad and it is only after 19 years of the said incident, they filed the suit, the prayer that they should be treated in service for all intents and purposes along with arrears and salary as well as interest, cannot be accepted and the suit was dismissed. Feeling aggrieved against the said decision, an appeal was also preferred by the appellants-plaintiffs, which also came to be dismissed by the lower appellate court vide judgment and decree dated 24.08.2016, hence the present regular second appeal.

6. Learned counsel for the appellants-plaintiffs argues that once the appellants-plaintiffs were regular employees in the year 1994, only by holding a regular enquiry, their services could have been terminated even if they have not joined at the transferred place, Faridabad, whereas no such procedure has been brought to the notice of the Court, hence, the procedure adopted by the respondents-defendants to terminate the services of the

appellants-plaintiffs is not in accordance with law, which fact has not been appreciated by the courts below.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. The present case is not a case of termination of service but abandonment of job. It is a conceded fact that since the year 1994 the appellants-plaintiffs were not performing the duties at the transferred place. It is also a conceded position that they never raised any grievance for a period of 18 years with regard to their assertion that they were not being allowed to join the duties, hence, the present is not a case of termination of services of the appellants-plaintiffs but is a case of abandonment of job by the appellants-plaintiffs for which no procedure was required to be followed as being asked by learned counsel for the appellants-plaintiffs. When an employee abandon the job, no disciplinary proceedings are required to be held. Reliance can be placed upon the judgment of Hon'ble Supreme Court of India in Special Leave Petitions (C) Nos. 24220-24221 of 2007 titled as ***Vijay S. Sathaye Vs. Indian Airlines Ltd. & Ors.***, decided on 06.09.2013. The relevant paragraph 13 of the said judgment is as under :-

“13. [In Syndicate Bank v. General Secretary, Syndicate Bank Staff Association & Anr.](#), AIR 2000 SC 2198; and [Aligarh Muslim University & Ors. v. Mansoor Ali Khan](#), AIR 2000 SC 2783, this Court ruled that if a person is absent beyond the prescribed period for which leave of any kind can be granted, he should be treated to have resigned and ceases to be in service. In such a case, there is no need to hold an enquiry or to give any notice as it would amount to useless formalities. A similar view has been reiterated in [V.C. Banaras Hindu University & Ors. v. Shrikant](#), AIR 2006 SC 2304; Chief

Engineer (Construction) v. Keshava Rao (dead) by Lrs., (2005) 11 SCC 229; and Regional Manager, Bank of Baroda v. Anita Nandrajog, (2009) 9 SCC 462.”

9. Hence, the judgments and decrees of the courts below cannot be treated as perverse while declining the relief as claimed by the appellants-plaintiffs.

10. No other argument was raised.

11. Keeping in view the above, no ground is made out to interfere in the judgments and decrees of the courts below.

Dismissed.

May 17, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No