

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 772 of 2018 (O&M)

Date of Decision: 21.08.2023

Bal Kishan Sharma

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Prateek Gupta and Mr. Parshant Puri, Advocates
for the appellant(s).

Ms. Vibha Tewari, Assistant Advocate General,
Haryana.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in ***Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157.***

2. The correctness of the concurrent findings of facts, arrived at by both the Courts below, is challenged by the plaintiff in this second appeal.,

3. A suit for the grant of decree of declaration with the consequential relief of mandatory injunction to the effect that he is entitled to be regularized on the completion of 240 days of service, has been dismissed by both the Courts below. In fact, the appellant's services were regularized vide order dated 03.03.1995 w.e.f. 01.04.1993. Thereafter, he

continued to serve as a regular employee. On 13.02.2013, the appellant filed

a suit claiming that he is entitled to be regularized on the completion of 240 days of service. The First Appellate Court has held that the suit filed by the plaintiff was beyond the period prescribed for filing a suit for declaration. Moreover, as per the judgment of the Supreme Court in *Secretary, State of Karnataka and Others vs. Uma Devi and Others (2006) 4 SCC 1*, no direction for regularizing the services of the employee is required to be issued by the Courts. In any case, the appellant's services were regularized w.e.f. 01.04.1993. Now, he wants that the same should be ante dated.

4. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

August 21, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No