



RSA-1184-1993

-1-

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

129

RSA-1184-1993

Date of decision:06.05.2024

STATE OF HARYANA & ORS.

... APPELLANTS

VS.

DALIP KUMAR & ANR.

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Aman Bahri, Addl. A.G., Haryana.

None for the respondents.

SUVIR SEHGAL J. (ORAL)

1. Defendants-appellants are in second appeal before this Court challenging the judgment and decree passed by the First Appellate Court.
2. Plaintiff-respondent No.1 filed a suit for mandatory injunction claiming compassionate appointment on account of death of his father, Ramji Lal, who was working as an Octroi Clerk with the Municipal Committee, Narnaul and expired on 22.06.1989. Upon notice, suit was contested by the defendants and after trial, was dismissed by judgment and decree dated 18.05.1992. In first appeal filed by the plaintiff, learned Additional District Judge, Narnaul, by judgment dated 14.01.1993, reversed the judgment and decree passed by the Trial Court and the following direction was given:-



RSA-1184-1993

-2-

“In view of my findings on the issues above, the appeal filed by Dalip Kumar succeeds and the judgment and the decree dated 18.5.1992 are set aside. The plaintiff-appellant shall be deemed to have been in service. However, I direct the respondents to consider the case of the plaintiff-appellant for the employment. The parties are left to bear their own costs. Consign the appeal records and the records of the trial court be sent back.”

3. This has resulted in the institution of the appeal at the hands of the official defendants.

4. Mr. Aman Bahri, learned Additional Advocate General, Haryana, has placed on record a xerox copy of communication (in vernacular) received from plaintiff-respondent No.1 and when translated, it reads as under:-

“To

*The Executive Officer,
Municipal Council, Narnaul.*

Sub:- For RSA No.1184-1993.

Sir,

It is submitted that I am Dalip Kumar. One of my cases i.e. RSA No.1184-1993 titled as “State of Haryana v/s Dalip Kumar” is under consideration in Punjab and Haryana, High Court, Chandigarh. In this connection, I want to clarify that I was working on 'Chungi' (Octroi) in Municipal Council, Narnaul. When the Government abolished the 'Chungi' (Octroi), I had been merged in Education Department. I am retired from the Education Department on 31.10.2021. Now, I do not



RSA-1184-1993

-3-

have any concern with the case bearing RSA No.1184 of 1993 pending in Punjab and Haryana, High Court, Chandigarh. Thus, the abovementioned case may be filed.”

5. Upon further instructions, Mr. Bahri submits that plaintiff/respondent No.1 was appointed on compassionate basis after the impugned judgment was passed and has since retired from service. He submits that nothing survives for consideration in the appeal.

6. In view of the above, appeal has become infructuous.

7. Dismissed as having been rendered infructuous. However, liberty is granted to the appellants to seek revival of the appeal, in case, any such occasion arises.

06.05.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No