

133 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2532-1993(O&M)
Date of Decision: 04.03.2024

SUKHDEV SINGH

...Appellant

Vs.

THE STATE OF HARYANA AND ANOTHER

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Kartikey Chaudhary, Advocate
for the appellant.

Mr. Harish Nain, AAG, Haryana and
Ms. Vibha Tewari, AAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present appeal, the challenge is to the judgment and decree of the Lower Appellate Court by which the judgment and decree of the trial Court dated 05.03.1990 has been set aside and the suit filed by the appellant/plaintiff has been dismissed.

2. Learned senior counsel appearing for the appellant/plaintiff argues that the petitioner was appointed as a Drawing teacher on 07.07.1980 in Middle School on temporary basis and he continued working till the year 1984 but despite the fact that in September 1982, regularization policy was issued by the Government of Haryana, in which, two years service was required for regularization of the service, which benefit of regularization was not given to the appellant/plaintiff on the ground that he was having less than two years of service to his credit.

3. Learned senior counsel for the appellant/plaintiff submits that

in case the period of vacation is taken into account, the appellant plaintiff had completed two years of service which was required under the regularization policy issued by the Government of Haryana in September 1982.

4. Learned State counsel on the other hand submits that while working on temporary basis, the petitioner competed for the post in question when the same was sought to be filled on regular basis by direct recruitment and while considering the claim of the petitioner, it had come on record that the antecedents of the petitioner were not good so as to give him regular appointment qua the post and regular appointment was denied hence, seeking the benefit of regularization so as to get a regular appointment, has rightly been denied by the Lower Appellate Court.

5. I have heard learned senior counsel for the appellant/plaintiff and have gone through the record with his able assistance.

6. It is a conceded fact that while working on the temporary post with the respondent/Department, the petitioner competed for regular appointment for the same post on which he was working on temporary basis. During the said selection process, it had come on record that the past record of the petitioner is shady due to which, he was not given regular appointment. The said action of the Department was never challenged by the appellant/plaintiff. Once, the record of the appellant/plaintiff was found to be shady during the verification, and the Department had not considered him eligible for direct recruitment, denying the benefit of regularization on the basis of the said reason, is perfectly valid and legal.

7. The Lower Appellate Court has rightly come to the conclusion

that even if it is assumed that the appellant/plaintiff had two years of service seeking regularization, but once, while considering his claim for direct recruitment on the post of Teacher, the petitioner has not been found entitled for job keeping in view his antecedents, hence, the same benefit cannot be given to the petitioner by way of regularization.

8. Learned counsel for the appellant has not been able to deny the fact that the evidence which has come on record including the report qua his antecedents, has been taken into account by the Lower Appellate Court to deny the benefit of regularization.

9. That being the factual aspect, it cannot be said that the judgment of the Lower Appellate Court is perverse to the evidence on record. In the regular second appeal, this Court is not to re-appreciate the evidence once again to record the findings which are other than the one recorded by the Courts below but is only to see the perversity in the findings which is causing prejudice to the appellant/plaintiff. No perverse finding has been pointed out by the learned Senior counsel while addressing the arguments, hence, no ground is made out for any interference by this Court.

10. The regular second appeal is dismissed.

11. Pending applications, if any, shall stand disposed of.

(HARSIMRAN SINGH SETHI)
(JUDGE)

04.03.2024

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No