



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-350-1993

Date of decision:-24.05.2024

Ranjit Kaur

...Appellant

Versus

Punjab State and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.P.K. Kishanpuri, Advocate for
Mr.Nagar Singh, Advocate
for the appellant.

Ms.Amrita Garg, AAG, Punjab.

SUVIR SEHGAL, J.(ORAL)

1. Plaintiff – appellant is before this Court by way of second appeal assailing the judgment and decree passed by the First Appellate Court.

2. Pledged case of plaintiff – appellant is that she was appointed as a Clerk on *ad hoc* basis in the Public Health Centre, Bharatgarh on 24.09.1982. She claimed that she was relieved on



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13.01.1984 without assigning any reason or granting her any opportunity of hearing. Claiming that by virtue of notifications issued by Government of Punjab, she is entitled to regularisation, she filed a suit for declaration wherein she pleaded that Smt.Neena Kumari, Smt.Kulwant Kaur and Smt.Harinder Pal Kaur, who was also working as Clerks on *ad hoc* basis were terminated by the defendants but they were later on reinstated by order dated 14.05.1986.

3. Upon notice, defendants appeared and filed a written statement taking various preliminary objections including an objection to the effect that the suit is barred by time. On merits, the service particulars of the plaintiff were admitted. A stand was taken that Smt.Joginder Kaur was duly recommended by the Subordinate Service Selection Board on 16.12.1983 and upon her joining, the services of the plaintiff, who was the junior most, were terminated. Resisting the suit, a plea has been taken that the plaintiff – appellant was appointed on *ad hoc* basis for a period of six months or till such time a regular candidate recommended by the Selection Board joins the duty.

4. Replication was filed by the plaintiff and issues were framed on the basis of the pleadings. After the parties led evidence and addressed arguments, Trial Court by judgment dated 31.01.1990 decreed the suit. Defendants filed an appeal before the learned District Judge, Ropar, which was accepted by judgment dated 18.12.1992 and the judgment and decree of the Trial Court was set aside. The plaintiff – appellant is before this Court in the above backdrop.

5. I have heard the counsel for the parties and considered their



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respective submissions besides examining the record with their able assistance.

6. Undisputedly, the plaintiff – appellant joined the service on *ad hoc* basis on 24.09.1982 and was terminated on 13.01.1984. She instituted a suit for declaration on 15.04.1987. It is evident that the suit has been instituted after the expiry of period of three years as provided under the Limitation Act, 1963. Plaintiff – appellant has claimed that she served a demand notice on 18.02.1984 raising an industrial dispute, which was declined vide intimation dated 20.09.1984, Ex.P9. A perusal of this communication shows that the Labour Commissioner rejected the demand notice and did not send the reference for determination to the Labour Court. It therefore cannot be said that the proceedings were pending before any Court. The plaintiff is therefore clearly not entitled to the benefit of this period under Section 14 of the Limitation Act, 1963.

7. In *State of Punjab and others Versus Gurdev Singh and Ashok Kumar (1991) 4 SCC 1*, Supreme Court has held that a party aggrieved by the invalidity of an order has to approach the Court for relief of declaration that the order against him is inoperative and not binding upon him. He must approach the Court within the prescribed period of limitation and if the statutory time limit expires, the Court cannot give the declaration sought for. In *State of Punjab Versus Rajender Singh, 1999 SCC (L&S), 664*, Supreme Court has held that Limitation Act, 1963 prescribes a three years limitation from the date of the order to seek a declaration that the order is illegal and does not bind



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a party. The limitation starts running from the date of passing of the order and on expiry of three years from that date, limitation expires by efflux of time. It is, therefore evident that the plaintiff – appellant has approached this Court after the expiry of the period of limitation. The suit, therefore has been rightly dismissed by the First Appellate Court as being barred by time and the judgment and decree passed by the First Appellate Court deserves to be upheld and is affirmed.

8. For the foregoing reasons, appeal is devoid of merit and is hereby dismissed.

9. Pending application (s), if any, shall also stand disposed of.

24.05.2024

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(SUVIR SEHGAL)
JUDGE