

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

RSA-583-1992 (O&M)
Date of decision: 09.01.2024

DHARAMBIR SINGH (DECEASED) THROUGH LRS ..Appellant

Versus

STATE OF HARYANA & ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Raghav Sharma, Advocate
for the appellant.

Ms. Vibha Tewari, AAG, Haryana
& Mr. J.S. Pannu, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

CM-13857-C-2023

1. For the reasons stated in the application for condonation of delay, which is supported by an affidavit, the application is allowed.
2. The delay of 9 days in filing the application for recalling, is condoned.
3. CM stands disposed of.

CM-13858-C-2023

4. This is an application for readmission of the appeal, which was dismissed for non-prosecution on 30.10.2023.
5. For the reasons stated in the application which is supported by an affidavit, the application is allowed.
6. The appeal is restored to its original number.
7. CM stands disposed of.

CM-13861-C-2023

8. For the reasons stated in the application which is supported by an affidavit, the application for bringing on record the legal representatives of deceased late Sh. Dharambir Singh (respondent), is allowed, subject to all the just exceptions.

9. The amended memo of parties is taken on record.

10. CM stands disposed of.

Main case

11. In this regular second appeal, the plaintiff assails the correctness of the judgment and decree passed by the First Appellate Court while dismissing his suit for grant of declaration to the effect that the order dated 17.03.1987, while terminating his services, is illegal, null, void and arbitrary. Though, the trial Court decreed the suit, however, the First Appellate Court on re-appreciation of evidence reversed the same.

12. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

13. The plaintiff was appointed as a driver on ad-hoc basis in the Office of District Rural Development Agency, Sonapat. His services were terminated on 17.03.1987. He claims that since he had completed 240 days of continuous service, therefore the termination of his service without holding a disciplinary inquiry, is not sustainable. The trial Court decreed the suit on the ground that he had completed 240 days of continuous service, however, the First Appellate Court has found that the services of the appellant have been dispensed with on account of his unsatisfactory work. It has been found that prior to terminating the service, the appellant's

different occasions. He was also absent from duty on 12.10.1986. Thus, the appeal was accepted and judgment and decree passed by the trial Court were set aside.

14. The learned counsel representing the appellant submits that the appellant was appointed on regular basis as in the appointment letter, there is a stipulation with regard to the completion of probation period. He further submits that the First Appellate Court has made out a new case for the State (respondent) as document Ex.D-1 and D-2 were never made a part of the written statement.

15. This Court has considered the submissions of the learned counsel representing the parties.

16. The learned counsel representing the appellant fairly admits that in the appointment letter issued to the appellant, it is categorically written that he is being appointed on ad-hoc basis. He has not led any evidence to prove that he was appointed on regular basis after following due procedure. Though, in the appointment letter, the appellant is shown to be serving on probation, however, that itself is not sufficient to conclude that he was appointed on regular basis or he became a civil servant.

17. As regards the second argument of the learned counsel representing the appellant, it may be noted here that Order VI Rule 2 of the Code of Civil Procedure, 1908, requires that the pleadings shall contain material facts in a concise form and evidence, which is sought to be led, if not required to be made a part of the pleadings. Therefore, the production of documents to prove that work and conduct of the appellant was not satisfactory, shall not be excluded from consideration on the ground that it is

beyond pleadings. Moreover, the services of the appellant were terminated in accordance with the terms of the appointment.

18. Keeping in view the aforesaid facts, no ground to interfere is made out.

19. Dismissed accordingly.

20. All the pending miscellaneous applications, if any, are also disposed of.

January 09th, 2024

Ay

(ANIL KSHETARPAL)
JUDGE

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