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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(208)

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Date of decision:- 28.02.2024

Mohan Lal

... Appellant

Versus

The Panchayat Samiti Nawanshehar

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Harbhajan Singh, Advocate
for the appellant.

SUVIR SEHGAL, J. (ORAL)

1. Mr. Vivek Chauhan, Advocate has put in appearance on behalf of the respondent and has filed Power of Attorney, which is taken on record.
2. Plaintiff-appellant is in second appeal before this Court challenging the judgment and decree dated 19.02.1994 passed by the First Appellate Court.
3. Brief facts may be noticed. Plaintiff-appellant filed a suit for declaration pleading that he was engaged as a labourer by the defendant-respondent on 08.02.1987 and worked as such till his service was terminated on the striking off his name from the roll of labourers on 02.11.1989. He has challenged this action by filing a suit for declaration to the effect that his termination is illegal and sought consequential relief to the effect that he be deemed to continue in service as a labourer on the same pay etc.

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4. Upon notice, suit has been contested by the defendant-respondent, wherein various preliminary objections have been taken. On merits, it has been stated that the plaintiff was not working continuously and that the defendant is not an industry under the Industrial Disputes Act, 1947. Plaintiff filed a replication re-asserting the averments of the plaint. On the basis of the pleadings of the parties, issues were framed and after the parties led evidence, Trial Court by judgment and decree dated 06.09.1991, accepted the suit. In appeal, preferred by the defendant, the First Appellate Court, reversed the findings, resulting in the instant second appeal by the plaintiff.

5. I have heard counsel for the parties and considered their respective submissions as well as examined the record with their able assistance.

6. Although, it has been pleaded by the plaintiff that he was working continuously with the Panchayat Samiti, but in the written statement filed by the defendant as well as the in the evidence led by way of deposition of Raj Kumur, DW-1, Superintendent, it has been proved that the plaintiff was engaged on daily wages and he was not a regular employee. It has been established on the record that he was engaged for a particular work and on its completion, his services were dispensed with. The onus to prove that the petitioner has been illegally terminated was on the plaintiff, which he has failed to discharge. He has not led any evidence by way of the attendance register or any other document to show that he has not been permitted to work. Certificate, Ex.P-1, does not advance his case. This certificate clearly mentions that he had worked as a daily paid labourer for the period from

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08.02.1987 to 01.08.1989 and his work and conduct was satisfactory. It is evident that the engagement of the appellant was for a specified period. This Court is, therefore, of the view that there is no infirmity and illegality in the judgment passed by the First Appellate Court, which deserves to be affirmed.

7. For the reasons assigned hereinabove, this Court does not find any merit in the appeal, which is hereby dismissed.

28.02.2024
Kamal

(SUVIR SEHGAL)
JUDGE

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