

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

RSA-1216-1997 (O&M)

Decided on :21.05.2024

DHARAMVIR SINGH

Versus

. .Appellant

STATE OF PUNJAB AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Fateh Singh Dhillon, Advocate for the appellant.

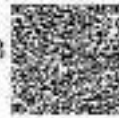
Mr. Rohit Ahuja, DAG, Punjab.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present regular second appeal, the challenge is to the judgments and decrees passed by the Courts below by which, the challenge raised at the hand of the appellant-plaintiff to the order dated 15.06.1989 vide which, the appellant-plaintiff has been dismissed from service, has been declined by the trial Court vide judgment and decree dated 10.12.1991 which judgment has been upheld by the lower Appellate Court vide judgment and decree dated 06.06.1996.

2. Learned counsel for the appellant-plaintiff submits that the reason for dismissal from service of the appellant is that the appellant-plaintiff remained absent from the service for more than two years whereas the appellant-plaintiff had been sending leave applications, which were not accepted by the respondents-department, hence, once the leave applications had already been submitted to the department concerned it cannot be said that the appellant-plaintiff remained unauthorizedly absent from the service so as to be dismissed from the service.

3. Learned counsel for the respondents on the other hand submits



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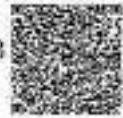
that the leave applications submitted by the appellant had already been rejected by the department concerned and the appellant was directed to resume the duties which he failed to do and keeping in view the evidence which has already come on record in the disciplinary proceedings that the appellant-plaintiff had left the country and is working in abroad, hence, the order of dismissal from service of the appellant which was passed after conducting the detailed inquiry while proving allegations alleged against the appellant with regard to unauthorized absence of the appellant from service, same has rightly been upheld by both the Courts below.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. Merely submitting the leave applications does not mean that the said leave applications were sanctioned unless and until an appropriate orders granting the same are passed by the competent authority. In the present case, keeping in view the evidence which has come on record, the leave of the respondent-plaintiff was never sanctioned hence, he was unauthorizedly absence from service. In the departmental enquiry, the said unauthorized absence has been proved due to which, the order impugned before the trial Court was passed.

6. Not only this, it has already come on record that the appellant had left the country and was working abroad. Keeping in view the said fact, once it is clear that the appellant was not interested in pursuing the job further and was only sending leave applications for leave so as to create a plea that in case, any adverse order is passed against him then, he can take a shelter behind the said leave applications, the plea being raised by the appellant-plaintiff cannot be accepted.

7. Even otherwise, no perversity in the judgments and decrees



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passed by the Courts below has been pointed out by learned counsel for the appellant, hence, in the absence of any perversity in the judgments and decree passed by the Courts below, no relief can be given to the appellant in the present regular second appeal, especially when the concurrent findings of the fact qua the unauthorized absence of the appellant-plaintiff from the service have been recorded.

8. No further argument has been raised by the learned counsel for the parties.

9. Hence, keeping in view the above facts and circumstances recorded herein above, no ground is made out for any interference by this Court in the present regular second appeal, **hence, the present regular second appeal stands dismissed.**

10. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

21.05.2024

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Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*