

107

RSA-263-1996
Date of decision:23.01.2024

STATE OF PUNJAB

... APPELLANT

VS.

SANTOSH KUMAR

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Jasleen Kaur Sidhu, DAG, Punjab,
for the appellant.

Mr. Prabhjot Singh Chahal, Advocate for
Mr. G.S. Nagra, Advocate for the respondent.

SUVIR SEHGAL J. (ORAL)

1. State-defendant is in second appeal before this Court assailing the judgments and decrees passed by both the Courts below.
2. Facts, in brief, may be noticed.
3. Santosh Kumar, plaintiff-respondent was appointed as a Ward Servant in 1976 and by order dated 03.03.1982, he has promoted as a Basic Health Worker. On 18.07.1983, he was reverted to the original post. On his appeal, by order dated 12/19.02.1986, he was again promoted as a Basic Health Worker. Averring that his second reversion by order dated 16.05.1988 as Ward Servant, is illegal, plaintiff-respondent filed the suit challenging the reversion order.
4. Upon notice, defendant/appellant-State appeared and contested the suit by taking various objections. A stand was taken that the plaintiff-

respondent was promoted as a Basic Health Worker on ad-hoc basis for 89 days and was never regularized. It has also been submitted that the previous reversion was challenged by the plaintiff-respondent by way of a writ petition before the High Court, which was dismissed on 27.10.1983. It has also been submitted that he did not possess the requisite qualification for the post of Basic Health Worker and was, therefore, posted as Ward Servant, a Class-IV post. Replication was filed by the plaintiff-respondent, controverting the stand taken by the State. After framing of issues and leading of evidence by the parties, Trial Court by judgment and decree dated 24.08.1992, decreed the suit. State-defendant remained unsuccessful before the First Appellate Court, which dismissed its appeal on 04.09.1995. Hence, the second appeal, which was admitted in the year 1996 and operation of the impugned decree was stayed.

5. I have heard counsel for the parties and perused the record with their able assistance.

6. The entire controversy involves around the interpretation of letter dated 12/19.02.1986, Ex.P-5. Its relevant translated extract is reproduced as under:-

“2. The Govt. after considering the appeal of Sh. Santosh Kaumar Class IV employee, regarding his reversion has decided to promote him on adhoc basis from the date he was reverted and allow him to continue as Basic Health Worker. In this regard it is clarified that he will not be entitled to any financial benefit because he has not worked during this period against the post of Basic Health Worker. In future, whenever promotion is made to the post of Basic Health Worker all the class IV employees of the Department working at that time be considered. In case some amendment in the Service Regulation is required to be made, necessary action

in this regard be taken.

3. In view of the above it is requested that above said order of the Govt. be implemented immediately.

4. The case file regarding appointment Sh. Hassan Lal, Gurcharan Singh etc. as Basic Health Workers (File page No.1 to 165) which was sent to the Govt. with your letter under reference is returned herewith. The receipt of this letter may be acknowledged.”

7. A perusal of the above reproduced letter shows that the promotion of the plaintiff-respondent was on purely ad-hoc basis and he was never regularized on the post of Basic Health Worker. Even during the course of arguments, counsel for the plaintiff-respondent could not show any material to substantiate his argument that the plaintiff-respondent had been regularized or that he had acquired the requisite qualification for promotion.
8. In view of the above, this Court is of the opinion that the Courts below have committed serious irregularity, while decreeing the suit.
9. As a consequence of the above discussion, appeal is allowed. Impugned judgments and decrees passed by both the Courts below are set aside and suit is dismissed with no order as to costs.
10. Pending application(s), if any, shall stand disposed of.

23.01.2024

(SUVIR SEHGAL)
JUDGE

sheetal

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