

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.5502 of 2019(O&M)

Reserved On: 19.09.2023

Pronounced On:01.01.2024

Kuldip Kumar and others

...Appellants

Versus

Bhakra Beas Management Board

...Respondent

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

**Present: Mr. R.L.Sharma, Advocate,
for the appellants.****ANIL KSHETARPAL, J.**

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh, is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in **Pankajakshi (Dead) through LRs vs. Chandrika and others, (2016) 6 SCC 157.**

2. In this regular second appeal, the plaintiffs challenge the correctness of the concurrent findings of fact arrived at by the courts below while dismissing their suit for grant of decree of mandatory injunction directing the defendants to allow them to join and to regularize their services.

3. The entire suit of the plaintiffs is based on the fact that they previously worked with the defendants for about 18-19 years and the defendants have not only wrongly removed them from service but they have failed to regularize the services of appellants.

4. On the other hand, it is the case of the defendants that the

plaintiffs were working intermittently as and when required. The defendants claim that the Board's requirement is not on a regular basis and daily wagers are appointed as and when there is availability of the work.

5. It has also come on record that in order to regulate the re-engagement of workmen, various directions were issued by the High Court of Himachal Pradesh as well as by the Punjab and Haryana High Court. The defendant-Board has also been issuing instructions from time to time including on 21.03.2001, 17.09.2004 and 11.05.2012. From 03.01.2004, the appellants are not in service. Both the courts have found that the plaintiffs failed to show that they are entitled to be taken back in service and to be considered for regularization as per the instructions issued by the defendant-Board or directions issued by the Courts from time to time.

6. This Bench has heard the learned counsel representing the appellants at length and with his able assistance perused the paper book.

7. The learned counsel representing the appellants submits that the defendant-Board was required to reinstate the appellants in service and regularize their services.

8. This court has considered the submission of the learned counsel representing the appellants.

9. It is evident that both the courts on appreciation of evidence have already come to a conclusion that the appellants are not entitled to be reinstated in service. It has been found as a matter of fact that the appellants have failed to fulfill all the requirements of the various policy decisions taken by the defendant-Board from time to time. The attention of the court was not drawn to any substantive error or perversity in the judgments passed by the courts below.

- 10.Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.
- 11.Dismissed.
- 12.All the pending miscellaneous applications, if any, are also disposed of.

01st January, 2024

(ANIL KSHETARPAL)
JUDGE

nt

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO