

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

104 RSA-4626-2018 (O&M)
Date of Decision: 29.01.2024.

Satpal ...Appellant.

Versus

State of Haryana and others ...Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

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

Mr. Harsh Vardhan, AAG, Haryana.

Sukhvinder Kaur, J.

The instant Regular Second Appeal has been filed by appellant/
plaintiff against the concurrent findings recorded by both the Courts below,
vide which the suit of the plaintiff was dismissed.

2. Brief facts of the case as per plaint are that the plaintiff was
initially appointed as Counter-Clerk on daily wages in the Office of General
Manager, Haryana Roadways, Jind, w.e.f. 28.05.1983 and is working as
Counter Clerk in the Office of General Manager, Haryana Roadways, Jind,
continuously against the sanctioned post of Counter-Clerk. Like him, many
other persons were also appointed on daily wages as Ticket Verifier in same
cadre and pay scale in various depots of Haryana Roadways and their
services have been regularized after completion of 240 days in a calender
year as per decision dated 17.03.1988 of the High Court in Civil Writ
Petition No.4743 of 1986. Another similar cadre employee Naresh Kumar,

who is junior to the plaintiff, was also initially appointed on daily wages w.e.f. 01.11.1989 and his services have been regularized w.e.f. 07.12.1990 after completion of 240 days by defendant No.2, vide order No.46415/RK dated 07.12.1990. Similarly, the services of another junior employee Smt. Madhu Sharma have also been regularized w.e.f. 01.06.1986 after completion of 240 days as per judgment of Court dated 11.01.1989. The High Court has also ordered to regularize the services of Ticket Verifiers in Civil Writ Petition No.4743 of 1986, vide order dated 17.02.1988 as well as in Civil Writ Petitions No.6315 of 1998 and 5532 of 2000 vide order dated 19.12.2011 and held that services of those persons be regularized who have completed 240 days in a calender year. As per the said order, keeping in view the length of service, 172 Ticket Verifiers have been regularized after completion of 240 days, vide order dated 07.08.2012 of defendant no.2, except the plaintiff. Further, the post of Ticket Verifier and Counter-Clerk are identical one, having equal pay scale, seniority and promotion line as per Transport Department, Haryana Roadways Group 'C' Rules, 1995. The plaintiff fulfils all the terms and conditions for regularization of his services after 240 days as applicable in the case of Ticket Verifiers, whose services has been regularized after completion of 240 days in a calender year. But the defendants did not regularize his services w.e.f. 27.01.1984 on completion of 240 days. Thus, the action of defendants is arbitrary, illegal, unjust and discriminatory.

3. The suit of plaintiff was dismissed by the trial Court, vide judgment and decree dated 28.10.2014. The appeal preferred by the plaintiff before the First Appellate Court was dismissed, vide judgment and decree

dated 08.05.2018. Hence, the present Regular Second Appeal.

4. Learned counsel for the appellant has contended that the trial Court returned the findings on issue No.1 regarding declaration and mandatory injunction as prayed for, in favour of the plaintiff, but dismissed the suit of the plaintiff on the ground of limitation. Before the First Appellate Court also, the findings on issue No.1 were not challenged and findings qua only limitation were challenged. He has contended that the present suit is well within limitation as the limitation would start to run from impugned order dated 07.08.2012 and the suit was filed before the trial Court on 13.02.2013. The cause of action accrued in favour of the appellant is recurring one and accrued everyday and every month when the benefit of regularization was denied to the appellant. He has further submitted that the bar of limitation cannot come in the way of regularizing the services of the appellant as case of the appellant is at par with that of other similarly situated employees of the department, whose services have been regularized after completion of 240 days in a calender year.

5. I have heard learned counsel for the appellant and gone through the records thoroughly.

6. In the present case, the plaintiff has specifically challenged the impugned order dated 03.09.1995 of defendant No.2 and sought declaration to the effect that said order was illegal, null and void and services of plaintiff were to be regularized from 27.01.1984. But this order was not challenged by him till the verdict of this Court qua Ticket Verifiers on 19.11.2011. It does not lie in the mouth of the plaintiff to say that he was not aware about the said order, when after being employed on daily wages for

certain period his services had been regularized, vide the said order dated 03.09.1995 and he had been enjoying the benefits under the said order since then. He did not sought any declaration based upon earlier policy and he accepted the order of regularization in 1995 as correct with full knowledge. In case, had there been no regularization of Ticket Verifiers in terms of Court order, he would not have challenged the same. The plaintiff was aggrieved against the impugned order dated 03.03.1995 and not against the order dated 07.08.2012 vide which the services of Ticket Verifiers were regularized. As the plaintiff had sought the declaration for declaring the impugned order dated 03.09.1995 issued by defendant No.2 as illegal, null and void and to set aside the same, so the law of limitation applies to him and it has been rightly held that the suit of the plaintiff was barred by limitation, as it had been filed after delay of more than 18 years.

7. For the reasons recorded above, the present Regular Second Appeal fails as it does not raise any question of law much less substantial question of law.

8. Appeal stands dismissed.

9. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

29.01.2024.
komal

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