



RSA-2005-2001 (O&amp;M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH**

**RSA-2005-2001 (O&M)**

**Reserved on : 09.09.2025**

**Pronounced on: 17.09.2025**

Rajinder Singh (deceased) through his LRs

..... Appellant

VERSUS

General Manager, Haryana Roadways, Fatehabad and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

Present: Mr. Uday Agnihotri, Advocate, for the appellant.

Mr. Gautam Kaile, DAG, Haryana.

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**DEEPINDER SINGH NALWA, J.**

1           The present Regular Second Appeal has been filed against the judgment and decree dated 23.12.2000 passed by learned Lower Appellate Court, whereby, the appeal filed by the appellant-plaintiff was accepted to the extent that the appellant-plaintiff was held entitled to be reinstated in service, but was denied the benefit of salary from 18.05.1990 to 09.07.1990 and from 25.04.1991 to 22.01.1992, by setting aside the judgment and decree dated 16.02.1999 passed by the learned trial Court

2.           Brief facts of the case are that on 13.09.1979, the appellant-plaintiff was appointed as a driver with the Haryana Roadways on ad-hoc



basis. His services were regularized on 18.03.1989. Unfortunately, the appellant-plaintiff fell ill and as a consequence, he took two days' rest from 23.04.1991 to 24.04.1991. As the health of the appellant-plaintiff did not improve, he could not join the duty. He was treated as absent from duty from 18.05.1990 to 09.07.1990 and from 25.04.1991 to 22.01.1992. On account of remaining absent from duty, respondent No.1- i.e. General Manager, Haryana Roadways, Fatehabad, vide order dated 23.01.1992 terminated the services of the appellant-plaintiff.

3. Aggrieved against the abovesaid order dated 23.01.1992, the appellant-plaintiff filed the suit for declaration to an extent that order dated 23.01.1992 was illegal and was liable to be set aside. It was the case of the appellant-plaintiff that no enquiry was held nor any opportunity of hearing was given to the appellant-plaintiff before passing of the abovesaid order, as such, the abovesaid impugned order was liable to be set aside.

4. The respondents-defendants duly filed written statement in the abovesaid suit. As per respondents-defendants, the appellant-plaintiff remained absent from duty with effect from 18.05.1990 onwards without submitting any application for grant of leave and medical certificate. It was the case of the respondents-defendants that infact, a show cause notice (Exhibit D-5) was duly issued to the appellant-plaintiff, which was served through his wife and infact, chargesheet was also issued through



registered post. It was also the case of the respondents-defendants that as no reply was filed to the chargesheet, as such, order dated 23.01.1992 was legal and valid.

5. The learned trial Court vide judgment and decree dated 16.02.1999 dismissed the suit filed by the appellant-plaintiff. A perusal of the judgment and decree passed by the learned trial Court would show that the learned trial Court has taken into consideration that as the show cause notice was served through the wife of the appellant-plaintiff and a chargesheet was also sent through registered post. In such circumstances, it could not be held that the impugned order passed by respondent No.2-defendant was illegal. It was also held that the appellant-plaintiff was an outdoor patient and was advised for light duty, therefore, as per the learned trial Court, the appellant-plaintiff could have moved an application to his department for grant of leave. It was also held that as the appellant-plaintiff was working as a Driver in the Haryana Roadways, and the said service came within the purview of the essential service and the absence of the appellant-plaintiff from duty, without any reason, created problem to the department.

6. From the pleadings of the parties, learned trial Court framed the following issues:-

*“1. Whether the order passed by defendant No.1-General Manager, Haryana Roadways Fatehabad regarding the termination of service of plaintiff is wrong and illegal is alleged? OPP.*



- 2. Whether the suit is not maintainable in the present form? OPD.*
- 3. Whether the Civil Court has no jurisdiction to try and entertain the present suit? OPD.*
- 4. Whether the plaintiff has no cause of action to file the present suit ? OPD.*
- 5. Whether the suit is time barred ? OPD.*
- 6. Whether the suit is bad for mis-joinder and non-joinder of necessary parties ? OPD.*
- 7. Whether the plaintiff has not served u/s 80 CPC before the institution of the suit ? OPD.*
- 8. Relief.”*

7. Aggrieved by the judgment and decree dated 16.02.1999 passed by the learned trial Court, the appellant-plaintiff filed an appeal before the learned lower Appellate Court. The learned lower Appellate Court allowed the appeal filed by the appellant-plaintiff vide judgment and decreed dated 23.12.2000 by setting aside judgment and decree passed by the learned trial Court. As per the judgment and decree dated 23.12.2000 passed by the learned lower Appellate Court, the appellant-plaintiff was held entitled to be reinstated in service as a Driver with the Haryana Roadways on furnishing medical certificate showing his fitness to perform the duties of a bus Driver and a valid driving licence. It was also held that the appellant-plaintiff would not be entitled to any salary/pay or other emoluments for the period of his absence from 18.05.1990 to 09.07.1990 and from 25.04.1991 till he joins the duty. It



was also held that the period during which, the appellant-plaintiff remained absent from duty, shall be treated as a period spent on leave without pay on medical grounds.

8. Aggrieved against the judgment and decree dated 23.12.2000 passed by the learned lower Appellate Court, the appellant-plaintiff has filed the present Regular Second Appeal.

9. The only contention raised by the learned counsel appearing on behalf of the appellant-plaintiff is that once, the learned lower Appellate Court had directed reinstatement in service, the appellant-plaintiff would also be entitled for grant of salary for the period from 18.05.1990 to 09.07.1990 and from 25.04.1991 to 22.01.1992. No other arguments were advanced.

10. Learned counsel for the respondents submits that as the appellant-plaintiff had remained absent from duty on the abovesaid periods and infact, had never submitted any application for grant of leave nor submitted any medical certificate, as such, the learned lower Appellate Court has rightly not granted the benefit of salary for the period from 18.05.1990 to 09.07.1990 and from 25.04.1991 to 22.01.1992.

11. After hearing the learned counsel for the parties at some length and going through the record of the case, the only issue arises for consideration in this appeal is, as to whether, the appellant-plaintiff is



entitled for grant of benefit of salary from the period 18.05.1990 to 09.07.1990 and from 25.04.1991 to 22.01.1992, when he remained absent from duty.

12. A perusal of the facts of the present case would reveal that it is admitted fact that the appellant-plaintiff remained absent from duty from 18.05.1990 to 09.07.1990 and from 25.04.1991 to 23.01.1992. It is also admitted fact that the appellant-plaintiff did not submit any application for grant of leave.

13. It is well settled law that there is no concept of grant of automatic salary for the period when an employee had remained absent from duty on reinstatement. Whenever, an employee is reinstated in service, the period of absence from duty, has to be treated in some manner. Various factors have to be taken into consideration to treat the absence period on duty of an employee as a duty period for the purpose of grant of salary. The appellant-plaintiff admittedly remained absent from duty during the abovesaid periods. It is not the case that the appellant-plaintiff was prevented from working by the respondents-defendants. It is also well settled law that where an employee's absence from duty is not due to the employer's wrongful action, the principle of "no work no pay" would be applicable and the employee would not be entitled for grant of salary for the period of his absence. Further, no rules have been brought to the notice of this Court that on reinstatement, the appellant-plaintiff



would be entitled for the grant of salary for the period when he remained absent from duty. As the appellant-plaintiff had not applied for leave nor submitted medical certificate nor any rules have been cited before this Court to show that the appellant-plaintiff is entitled for grant of salary for the period when he remained absent from duty. The respondents-defendants have rightly held that the appellant-plaintiff was not entitled for salary or other emoluments for the period when he remained absent from duty and the period spent on leave without pay be treated as leave on medical grounds.

14. Taking into consideration the facts of the present case and the evidence led by the parties, this Court does not find any infirmity or illegality in the judgment and decree dated 23.12.2000 passed by the learned lower Appellate Court. The present appeal accordingly is **dismissed.**

15. Pending miscellaneous application(s), if any, also stand(s) disposed of.

(DEEPINDER SINGH NALWA)  
JUDGE

17.09.2025  
Ramandeep Singh

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|-----------------------------|----------|
| Whether speaking / reasoned | Yes / No |
| Whether Reportable          | Yes/ No  |