

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA-2289-1994

Lehna SinghAppellant

Versus

The Haryana StateRespondent

1.	Reserved on	:	28.01.2026
2.	Pronounced on	:	06.02.2026
3.	Uploaded on the website	:	06.02.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	:	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	:	Not applicable

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by : Mr. R.K. Malik, Sr. Advocate assisted by
Mr. Kartikey Chaudhary, Advocate for the appellant.

Mr. Priyavrat Parashar, AAG, Haryana.

NAMIT KUMAR, J.

1. The instant Regular Second Appeal has been preferred by the appellant/plaintiff impugning the judgments and decrees dated 21.12.1992 and 05.05.1994 passed by the learned Trial Court and the First Appellate Court respectively, whereby his claim seeking benefit of pay and allowances for the period from 20.12.1978 to 06.02.1981 has been rejected. Parties to the *lis* hereinafter shall be referred to by their original position before the trial Court.

2. The undisputed facts of the case are that the appellant/plaintiff joined the Education Department as JBT Teacher on 22.10.1966. He submitted his resignation on 20.12.1978 but before it could be accepted, he left and joined as Teacher in Nagar Nigam, New Delhi, in the pay scale of Rs.330-560 from 21.12.1978 to 03.04.1979.

Thereafter, he submitted an application on 05.04.1979 to again join as JBT Teacher, which was forwarded by DPI, Haryana, Chandigarh. He was allowed to join his duties on 07.02.1981 by the District Education Officer, Karnal and thereafter, he retired from service on 31.03.2003. He claimed pay and allowances from 20.12.1978 to 06.02.1981 (the period he remained out of service) and the said claim was rejected by the respondent-State, vide order dated 23.08.1982. He filed an appeal to the DPI, Haryana, Chandigarh, which was rejected, vide order dated 19.10.1988. Thereafter, he submitted a revision petition before the Secretary and Commissioner, Education Department, Haryana, Chandigarh, which was also rejected, vide order dated 08.08.1989. Therefore, the appellant/plaintiff filed a suit on 09.04.1990 before the learned Trial Court for impugning the order dated 23.08.1982 passed by the District Education Officer, Karnal, whereby his claim for the benefit of pay and allowances from 20.12.1978 to 06.02.1981 was rejected and further orders dated 19.10.1988 and 08.08.1989 passed by the DPI, Haryana and Secretary and Commissioner, Education Department, Haryana, respectively, whereby his appeal and revision respectively, were dismissed. In the suit, the learned Trial Court framed the following issues:-

“1. Whether the order dt. 19.10.1988 passed by the DPI, Hr. and also order passed by commissioner, Education, Deptt. Hr. is illegal, null, void, malafide and against the principle of natural justice?OPP.

2. Whether the suit is time barred?OPD.

3. Whether this court has no jurisdiction to try and entertain the present suit?OPD.

4. Whether the suit is bad for want of notice under sec. 80 CPC?OPD.

5. Whether the suit is not maintainable?OPD.

6. Relief.”

3. The case set up by the appellant/plaintiff before the learned Trial Court was that he submitted an application dated 05.04.1979 for rejoining the Education Department and the same was kept pending by the respondent and the appellant/plaintiff was only allowed to rejoin his duties as JBT Teacher with effect from 07.02.1981. The said contention of the appellant/plaintiff was rejected by the learned Trial Court while recording findings in paras 9 and 10 of its judgment, which reads as under:-

“9. Some of the admitted facts are that the plaintiff sent his resignation on 20.12.1978, which was sent to the plff. in original by the DEO, Karnal and as such that resignation was never accepted. It is also admitted that the plaintiff worked as teacher in Nagar Nigam, New-Delhi from 21.12.1978 to 3.4.1979. The dispute is whether the plff. had made an attempt on 5.4.1979 vide letter Ex. P1 to join the Education Deptt. Hr. again and whether it was the fault of the defendant for not giving the plff. an opportunity to join from 5.4.1979 till 7.2.1981 when the plaintiff again joined on the orders of DEO, Karnal dt. 5.2.1981 Thus as far as pay and allowances of period from 21.12.1978 to 5.4.1979 are concerned, same cannot be given to the plff. as he remained posted in New-Delhi and there was no opportunity for the plaintiff to have served the Education Deptt. Haryana during that period.

10. Adverting to the question whether the plaintiff had made an attempt on 5.4.1979 to join, it may be mentioned here that the Ld. Govt. Pleader has rightly pointed out letter Ex.D1 allegedly written by the plff. on 20.3.1989 wherein he had requested the Secy., Education Deptt., Haryana to release his G.P.F. and increments upto December, 1978 as he was not willing to work with the Education Deptt., Haryana. This letter written on 20.3.1980 clearly shows that the plaintiff had never got the intention of joining before this date i.e. 20.3.1980 and as such the allegations of the plaintiff that he had made an application for giving him joining on 5.4.79 is false altogether. Rather application Ed.D2, written by the plaintiff on 5.8.1980 shows that he had made an application only on 5.8.1980 to Head Master, Govt. School, Anupura-Nain which was sent by the Headmaster to the DEO, Karnal for proper action and on this application DEO vide order dt. 5.2.1981 allowed the

plaintiff to join.”

4. Learned Trial Court also recorded a finding that there was a concealment on the part of the appellant/plaintiff as he did not disclose in the plaint that from 21.12.1978 to 03.04.1979 he had worked as Teacher in Nagar Nigam, New Delhi. Finding recorded by the learned Trial Court to this effect in para 11 reads thus:-

“11. Thus the plaintiff has miserably failed to prove his case of pay and allowances, from 20.12.1978 to 6.2.1981. The plaintiff has concealed from the court that he worked as Teacher in Nagar Nigam, New Delhi from 21.12.78 to 3.4.1979 and came to the court for getting the pay from Haryana also during that period. This action of the plaintiff is highly depreciable.”

5. Consequently, the suit of the appellant/plaintiff was dismissed with costs. The said judgment/decreed passed by the learned Trial Court was assailed by the appellant/plaintiff before the learned First Appellate Court, which has also been dismissed, vide judgment and decree dated 05.05.1994 by recording the following findings:-

*“7. When the plaintiff appeared as PW1 he had stated in examination-in-chief that he had submitted his resignation letter on 20.12. 1978 from the post of JBT teacher in the Haryana Education Department but the same not having been accepted he had reported on 5.4.1979 to Head Master, Govt, School Alupura Nahi for being allowed to join his duty vide application Ex.P1 but he was not allowed to join and was directed to meet the higher authorities. He kept on meeting them repeatedly. In cross-examination he has admitted that he had received his resignation letter in original on 15.1.1979 with the objection that he should deposit three months full pay. He has further admitted that from 21.12.1978 to 3.4.1979 he had been employed in the Primary School, Rang Puri, Nagar Nigam, Delhi in the scale of 330-560. He has also admitted that his resignation letter was not accepted. He has also admitted that from 21.12.1978 to 3.4.1979 he remained absent from duty in his parent department and during this period he was working in the service of Delhi Administration. Coupled with these significant admissions in his cross-examination, **there is the glaring fact that there is not a word in the plaint about his having***

remained in the employment of Delhi Administration from 21.12.1978 to 3.4.1979. Apart from the fact that this is a material concealment by the plaintiff from the court which by itself dis-entitles him to any relief, he cannot take advantage both ways i.e. having received his pay for this period from Delhi Administration he cannot ask for pay from his parent department in the Haryana Government without having worked there. In the circumstances of the case I am of the view that his parent department has treated him leniently by allowing him to join duty despite his admitted absence from the same for a considerable period of time. Even the punishment imposed upon him for this lapse on his part i.e. stoppage of two increments with cumulative effect has been set aside by the order of the District Judge, Karnal dated 15.6.1988 as stated in the plaint which has been admitted in the written statement. Therefore, I fail to see how the plaintiff has suffered in any manner.

8. *Examined from another angle, it is the case of the plaintiff himself that his resignation letter was sent back to him for meeting the objection there in. It was his bounden duty to keep on reporting for work in his parent department at the place and school of his posting till he received any word from the higher authorities regarding the fate of his resignation letter. It was not open to him just to submit the resignation letter on 20.12.1978 and start absenting himself from duty from the very next date. Rather he left for Delhi without waiting for the result of his resignation and got employment with the Delhi Administration. This conduct amounts to dereliction of duty and is yet another ground dis-entitling him to any relief.*

9. *For the reasons recorded above there is no merit in this appeal what-so-ever and the same is dismissed with costs."*

6. Learned Senior Counsel for the appellant contends that the impugned judgments and decrees passed by the learned Trial Court and the First Appellate Court suffer from patent illegality, being cryptic, erroneous, and founded on conjectures and surmises. It is further urged that despite the appellant/plaintiff having submitted a duly supported application dated 05.04.1979 for rejoining the Education Department, the same was kept pending by the respondent authorities, and the appellant/plaintiff was ultimately permitted to resume duties as a JBT

Teacher with effect from 07.02.1981. Consequently, the impugned judgments and decrees be set aside and appropriate relief be granted to the appellant/plaintiff in accordance with law.

7. Learned counsel appearing on behalf of the State has vehemently opposed the claim of the appellant/plaintiff and has supported the impugned judgments and decrees. It has been submitted that although the appellant/plaintiff had tendered his resignation on 20.12.1978, the same was never accepted as it was not routed through proper channel and was accordingly returned with objections. It has been further contended that the appellant/plaintiff himself expressed unwillingness to serve in the Education Department and had, in fact, worked with Nagar Nigam, New Delhi, thereby remaining absent from the Education Department, Haryana, without obtaining due sanction, thereby committing misconduct. Consequently, the impugned orders passed by the learned Trial Court and the First Appellate Court were justified and calls for no interference by this Court and hence, present appeal is liable to be dismissed.

8. I have heard learned counsel for the parties and perused the record.

9. The matter stands admitted on 19.07.1995.

10. It is a well settled proposition of law that a person, who does not approach the Court with clean hands and plays fraud with the Court, is not entitled for any relief. Any concealment, suppression, or misrepresentation of such facts amounts to an abuse of the process of law and vitiates the very foundation of the relief claimed. The Court, being a forum of equity as well as justice, does not extend its

discretionary or extraordinary jurisdiction to a party who has not come with clean hands. Suppression of material facts not only undermines the administration of justice but also disentitles the litigant from any equitable relief, irrespective of the merits of the case. The obligation to approach the Court with utmost candour and bonafides is not a mere formality but a substantive requirement of law. Reference in this regard can be made to the judgments in *Hari Narain v. Badri Das - 1963 AIR Supreme Court 1558*; *Welcome Hotel and others v. State of A.P. and others - (1983) 4 SCC 575*; *G. Naryanaswamy Reddy (Dead) by LRs. and another v. Government of Karnataka and another - 1991 AIR Supreme Court 1726*; *S.P. Changalvaraya Naidu (Dead) by LRs. v. Jagannath (Dead) by LRs. - 1994 AIR Supreme Court 853*; *A.V. Papayya Sastry and others v. Government of A.P. and others - 2007 AIR Supreme Court 1546*; *Prestige Lights Limited v. SBI - 2007(4) RCR (Civil) 46*; *Sunil Poddar and others v. Union Bank of India - 2008(2) RCR (Civil) 555*; *K.D.Sharma v. SAIL and others - 2008(12) SCC 481*; *G.Jayashree and others v. Bhagwamdas S. Patel and others - 2009 AIR Supreme Court 1749* and *Dalip Singh v. State of U.P. and others - 2010(2) SCC 114*.

11. Concurrent findings have been recorded by the learned Trial Court and the First Appellate Court and learned Senior Counsel for the appellant has failed to show that the same are perverse or illegal or based on misreading, non-reading or mis-appreciation of the material evidence on record.

12. Learned Senior Counsel for the appellant has made an alternative prayer that the period from 20.12.1978 to 06.02.1981 be counted for pensionary benefits. The said contention cannot be

accepted for the reason that the appellant/plaintiff had submitted his resignation on 20.12.1978 and absented from the duty from the next very day to join as Teacher in Nagar Nigam, New Delhi, and worked as such from 24.12.1978 to 03.04.1979 and thereafter he rejoined the services of his parental department on 07.02.1981 as JBT Teacher, which prima facie shows that there is a wilful and unauthorised period of absence on the part of the appellant/plaintiff resulting a break of more than 02 years in service, and therefore, the said period cannot be counted as part of service for any pensionary benefits as well.

13. No question of law, much less substantial question of law, has been raised or arises for consideration in the present appeal. No other point has been urged.

14. In view of the above, present appeal is dismissed.

06.02.2026

Vinay

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No