



RSA-939-2010 (O&M)

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

RSA-939-2010 (O&M)

STATE OF PUNJAB AND OTHERS

.....Appellants

Vs.

SURINDER KUMAR

.....Respondent

Reserved on : 29.04.2026

Pronounced on: 30.04.2026

Uploaded on: 05.05.2026

Whether only the operative part of the judgment is pronounced? NO

Whether full judgment is pronounced? YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Animesh Sharma, Addl. Advocate General, Punjab
for the appellants.

Mr. Manu K. Bhandari, Advocate and
Mr. Arjun Sawhni, Advocate
for the respondent.

SUDEEPTI SHARMA J. (Oral)

1. The present appeal is preferred against judgment and decree dated 14.11.2009 passed by learned Additional District Judge, Patiala whereby, appeal filed by the respondent against judgment and decree dated 28.07.2008 passed by learned Civil Judge (Jr. Division), Patiala was allowed.

2. Brief facts of the case as per the civil suit are that respondent was engaged as Safai Sewak w.e.f. 02.11.1998. Vide memo dated 30.12.2003 of General Manager, Industrial Centre District Patiala his services were terminated. He filed civil suit challenging his termination order dated 30.12.2003. Civil suit filed by him was dismissed by learned Civil Judge (Jr. Division), Patiala vide judgment and decree dated 28.07.2008. He filed appeal against the same which was accepted by learned Additional District Judge, Patiala vide judgment and decree dated 14.11.2009. Hence, the present regular

second appeal.



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3. Learned counsel for the appellants contends that learned First Appellate Court totally ignored the fact that respondent was daily wager and was not holding any regular post. He further contends that respondent was not appointed against vacant post and was paid wages out of contingency funds for the days he actually worked. Further that he either worked continuously on any regular post for 240 days nor his services were governed by any regulation and service rules. No service book was prepared at the time of his joining. He was engaged with the condition that his services would be terminated at any time without prior notice. He never applied for the post nor his name was sponsored by employment exchange. He, therefore, prays that the present appeal be allowed and judgment and decree dated 14.11.2009 be set aside.

4. Per contra, learned counsel for the respondent contends that learned Additional District Judge, Patiala has rightly allowed the appeal filed by respondent since without any complaint respondent was terminated. He further contends that before termination, no notice or opportunity of personal hearing was given to him. He further contends that respondent has expired in the year 2025. Therefore, notional benefits be granted to the respondent. He, therefore, prays that the present appeal be dismissed.

5. He relies on the following judgments in support of his arguments:-

- i. Hon'ble this Court in ***CWP-16198-2012 titled as Balwinder Kaur Vs. The State of Punjab and others and connected matters***, dated 16.12.2014.
- ii. Hon'ble this Court in ***CWP-3253-1997 titled as Brinder Pal Singh Vs. State of Punjab and others***, dated 23.01.2024.

6. I have heard learned Counsel for the parties and perused the whole record of this case with their able assistance.

7. A perusal of the record shows that respondent was engaged as daily wager. He was not holding any regular post. He was paid for the work



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time to time. No regular service book was prepared at the time of his joining the service. He was engaged with condition that his services could be terminated at any time without prior notice. He was never engaged as Safai Sewak against any vacant regular post. He used to be paid wages for the days he actually worked out of contingency fund. He never worked continuously on any regular post for 240 days. No service rule or regulation was applicable to him. No record was produced by respondent that he completed 240 days in any calendar year. Learned First Appellate Court totally ignored the fact that respondent was a daily wager and just by relying upon Government instructions dated 23.01.2001 (Ex.P-8) allowed the appeal filed by respondent without appreciating even the policy dated 23.01.2001 which specifically states that no new posts are ordinarily to be created and further permission of department of personnel and Department of Finance along with the vacancies available is to be seen before regularizing any person and in the present case respondent was not even working against the regular post.

8. Now coming to the judgments relied by learned counsel for the respondent. The same are not applicable in the present case as the facts of the present case are altogether different and distinguishable.

9. In view of the above, judgment and decree dated 14.11.2009 passed by learned Additional District Judge, Patiala, is set aside and judgment and decree dated 28.07.2008 is upheld.

10. Accordingly, the present regular second appeal is ***allowed***.

11. Decree sheet be prepared accordingly.

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

30.04.2026

Saahil/Ayub

(SUDEEPTI SHARMA)
JUDGE

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