
State of Haryana and Others Vs Bharat Singh

R.S.A. No. 3953 of 2015 (O&M)

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Jan. 6, 2016

Citation: (2016) 1 LLJ 462

Hon'ble Judges: Sabina, J.

Bench: Single Bench

Advocate: Saurabh Mohunta, DAG, for the Appellant;

Final Decision: Dismissed

Judgement

Sabina, J.

1. Respondent had filed suit for declaration challenging the order dated 27.10.2005, whereby, he was ordered to be

regularised/absorbed against the post of Labourer instead of Tractor driver and the order dated 21.06.2006, whereby, appeal filed by the

respondent, was dismissed. The case of the respondent-plaintiff, in brief, was that he was appointed as Tractor driver on 01.03.1994 and his

services were terminated w.e.f. 01.10.1996. Respondent raised an industrial dispute and the Labour Court vide its award dated 08.10.1999

ordered the reinstatement of the respondent with continuity of service. In compliance of the said award, respondent was reinstated in service and

he joined his duties. Thereafter, respondent made a representation for regularisation of his services as a driver (Group "C"). However, vide order

dated 27.10.2005, respondent was regularised as a Labourer (Group "D"). Aggrieved against the said order, respondent preferred an appeal, but

the said appeal was dismissed by Chief Conservator of Forests vide order dated 21.06.2006. The case of the respondent-plaintiff further, was that

he had been performing the duties of a driver and was therefore, liable to be regularised as a driver instead of a Labourer. Hence, the suit was filed

by the respondent-plaintiff.

2. Appellants-defendants in their written statement averred that respondent-plaintiff was appointed on temporary basis and was paid wages on

D.C. rates. The respondent-plaintiff was liable to be regularised as a Labourer. It was further averred that post of driver was lying vacant in the

office and in public interest, respondent had worked as a driver. As soon as some driver was appointed through Service Selection Board or on

transfer, then the said person would work as a regular driver.

3. On the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the order dated 27.10.2005 passed by defendant No. 4 which has merged in order dated 21.6.2006 passed by the defendant No. 3

is wrong, illegal, null and void? OPP.

2. Whether the plaintiff is entitled to be regularised/absorbed against the post of Driver w.e.f. 1.10.2003 with all the consequential benefit along

with interest, if so, at what rate? OPP.

3. Whether the suit is not maintainable in its present form? OD.

4. Whether the plaintiff has no cause of action or locus standi to file and maintain the suit? OPD.

5. Relief.

4. Trial Court vide judgment/decree dated 16.09.2011 allowed the suit of the respondent-plaintiff. The said judgment/decree passed by the trial

Court were upheld by the First Appellate Court vide judgment/decree dated 28.11.2013 in an appeal filed by the appellants-defendants. Hence,

the present appeal by the appellants-defendants.

5. I have heard learned counsel for the appellants and have gone through the record available on the file carefully.

6. Parties led their evidence in support of their respective pleas. The Courts below after appreciating the evidence led by the parties on record,

have given a finding of fact that the respondent-plaintiff was appointed as a driver vide Exhibit P1 on D.C. rates. Admittedly, services of

respondent-plaintiff were terminated and he was ordered to be reinstated by the Labour Court vide award dated 08.10.1999 as the respondent-

plaintiff had raised an industrial dispute challenging his termination. In compliance to the award passed by the Labour Court, respondent-plaintiff

was reinstated in service. Admittedly, respondent-plaintiff was working as a driver with the appellants-defendants. Thereafter, respondent - plaintiff

represented that his services be regularised. Vide Exhibit P12, the case of the respondent-plaintiff was forwarded for regularisation of his service

as a driver. However, vide impugned order dated 27.10.2005, the services of the respondent-plaintiff were regularised as a Labourer. Since the

respondent- plaintiff had been performing the duties of a driver with the appellants-defendants, the Courts below rightly decreed the suit of the

respondent-plaintiff and ordered that the respondent-plaintiff be absorbed/ regularised as a driver w.e.f. 01.10.2003.

7. No substantial question of law arises in this case warranting interference by this Court. Dismissed.