

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

211

RSA No.4543 of 2000 (O&M)  
DATE OF DECISION : 3<sup>rd</sup> MAY, 2023

Vijay Singh

.... Appellant

Versus

State of Haryana & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

\* \* \* \*

Present : Mr. Rajender Chhokar, Advocate for the appellant.

Mr. Krishan K. Chahal, Addl. AG Haryana.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present regular second appeal has been filed on behalf of the plaintiff of the original suit challenging the Judgment and decree dated 13.09.2000 passed by the District Judge, Narnaul whereby the judgment and decree passed by the trial court was set aside and the suit filed by the appellant was ordered to be partly decreed.

2. The brief facts as involved in the present appeal are that the appellant had applied for the post of Chowkidar advertised by respondent No.2 on *ad hoc* basis for a period of six months and against a temporary post. The petitioner was found suitable and the appointment letter was issued to him on 07.08.1993 and he was given 15 days time to join. He attempted to submit his joining report on 13.08.1993 but the Principal of the School did not allow him to join and had torn-off his joining report. Having failed to persuade the Principal; the appellant instituted the suit on 21.08.1993 seeking decree for permanent injunction to restrain the Principal from causing obstacles in joining of the appellant. Further

prayer was made for mandatory injunction directing the Principal to allow him to perform the duties as Chowkidar. After considering the evidence led on file and hearing the parties, the trial court had dismissed the suit filed by the appellant vide judgment and decree dated 15.09.1997. Feeling aggrieved against the same the appellant had preferred the appeal before the Additional District Judge, Narnaul. The appellate court partly allowed the appeal filed by the appellant and decreed his suit only qua damages for the period of appointment involved in the process. Challenging the said judgment and decree the present appeal has been filed.

3. Arguing the case the learned counsel for the appellant has submitted that since the appellant was wrongly restrained from joining the duty, therefore, he had got the right to get a decree of injunction directing the respondents to permit him to join the duty. Had the respondents permitted him to join the duty; he would have even got regularized on the post and would have superannuated after rendering service up to the age of superannuation. As per the appointment letter the appellant was likely to continue in service; hence he would have possibly continued till the age of superannuation. Therefore, the judgment and decree passed by the lower appellate court deserves to be modified and the respondents deserves to be directed to take the appellant in service and grant him the notional benefits, including the retiral benefits to which the appellant would have been entitled had he been permitted to join in the first instance. The counsel for the appellant has further submitted that even the appeal, i.e., RSA No.4223 of 2000 filed by the State against the appellant, stands dismissed on 17.11.2000.

4. On the other hand, the counsel for the respondents has submitted that the appointment was specifically for a period of six months only; and purely on *ad hoc* basis. Although, the appellant was rightly denied joining because he had not approached the authority within the stipulated time, however, even if his joining was accepted, then also he would have been in employment of respondent only for a limited period of six months. The appellant had no right to continue beyond six months. Lower appellate court has already granted the damages proportionate to the salary for a period of six months for which the appellant would have been in service pursuant to the said appointment. No further benefit can be claimed by the appellant on the basis of unforeseen situations, by claiming that he would have got regularization and would have worked on the post till the age of his superannuation. Hence, the court below has rightly rejected the said claim of the appellant.

5. Having heard the counsel for the parties and going through the record of the case, this court does not find any substance in the argument raised by counsel for the appellant. It is not even disputed that the post was advertised only for being filled up on *ad hoc* basis for a period of six months. Moreover, even the selection does not confer a right upon the person selected to get joining as such. Therefore, the appellant had got no indispensable right to seek joining on the post pursuant to his selection. Otherwise also, since the appointment was limited for the period of six months, therefore, the maximum benefit which the appellant would have derived from the said appointment was the salary for the period of six months. The said benefit has already been conferred upon the appellant by the lower appellate court. The appeal

filed by respondent against the said judgment and decree already stands dismissed. Counsel for the respondents has even produced before the court the copy of the receipt of the amount of damages granted by the lower appellate court. Therefore, the decree of the lower appellate court even stands executed.

6. Although, the counsel for the appellant has submitted that had he been permitted to join on *ad hoc* basis there were chances that he would have been regularized on the said post and therefore, would have continued till the age of superannuation, however, there cannot be any such presumption in favour of regularization. The regularization, as such, is not an automatic process. Rather, the same depends upon contingency of the State issuing policy of regularization and, further, the employee fulfilling the condition stipulated therein, if at all any regularization was permissible for the State. Therefore, the argument raised by the counsel is based upon uncertain events which may not even have happened on the date when the appellant would have completed six months. Therefore, this court does not find any substance in this argument of the counsel for the appellant.

7. In view of the above, finding no merit in the present appeal the same is dismissed.

3<sup>rd</sup> MAY, 2023  
'raj'

(RAJBIR SEHRAWAT)  
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>