



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

(1) RSA-716-2014 (O&M)
Reserved on: 02.09.2025
Date of decision: 15.09.2025

GURWINDER PAL KAUR

..Appellant

Versus

KHALSA DIWAN (GURUDWARA SINGH SABHA) & ORS

..Respondents

(2) RSA-2224-2013 (O&M)

KHALSA DIWAN AND ANR

..Appellants

Versus

GURWINDER PAL KAUR

..Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Mohnish Sharma, Advocate
for the appellant (in RSA-716-2014)
for respondents (in RSA-2224-2013).

Mr. Ram Lal Gupta, Advocate
for the appellants (in RSA-2224-2013)
for respondents (in RSA-716-2014).

SUDEEPTI SHARMA, J.

1. With the consent of the learned counsel for the parties, two connected appeals arising out of appeal as well as cross-objection before District Judge, Bathinda are decided vide this common judgment.
2. The present appeals are preferred against judgment and decree dated 19.11.2012 passed by District Judge, Bathinda, whereby, appeal as



well as cross-objections filed by both the appellant in both regular second appeals were dismissed.

BRIEF FACTS OF THE CASE

3. Brief facts of the case as per the pleadings in civil suit are that Gurwinder Pal Kaur was originally engaged as primary teacher in September, 1997 with Khalsa Senior Secondary School managed by Managing Committee, Khasla Senior Secondary School, Bathinda. Though she was engaged as a teacher but she was entrusted some other duties and she had sufficient experience of the work for the post of clerk. She applied for the post of clerk and taking into account her work and conduct as teacher as well, she was engaged as clerk in payscale of Rs.2600-4300/- on permanent basis against unaided post vide resolution No.195 dated 15.01.2006 in Khalsa Senior Secondary School, Bathinda (respondent No.3). The agreement dated 15.01.2006 was also executed in this regard. She resumed her duties as clerk on 12.02.2006 after having been relieved from the post of teacher. On 16.09.2006, she was not allowed to perform her duty on the ground that her services were terminated with effect from 16.09.2006 afternoon. She was not supplied any order of termination or relieving chit or any notice. She asked for copy of order but she was not supplied any order. An application dated 18.09.2006 was sent to SHO, Kotwali, Bathinda by Principal, Khalsa Senior Secondary School, Bathinda to the effect that services of appellant were terminated vide resolution dated 16.01.2006 but appellant was vitiating the atmosphere of the school. Since no order was given to the appellant and no relieving chit was given, therefore, she filed civil suit before Civil Judge (Junior Division) Bathinda for declaration to the



effect that she is entitled to be treated in service as clerk in Khalsa Senior Secondary School, Bathinda with effect from 17.09.2006 and also entitled for arrears of pay and allowances from 17.09.2006 till she is allowed to resume her duties along with interest at the rate of 18% per annum besides continuity of service and all other consequential benefits. The civil suit filed by Gurwinder Pal Kaur was partly decreed vide judgment and decree dated 13.05.2011. Appeal and cross-objections were filed by Gurwinder Pal Kaur as well as Managing Committee, Khasla Senior Secondary School, Bathinda, before District Judge, Bathinda against judgment and decree dated 13.05.2011, who vide its judgment and decree dated 19.11.2012 dismissed the appeal as well as cross-objection preferred by both the appellants. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES IN RSA-716-2014:

4. In RSA-716-2014, learned counsel for the appellant contends that both the judgments and decrees passed by Civil Judge (Junior Division) Bathinda and District Judge, Bathinda, are liable to be set aside to the extent that the appellant is not entitled to arrears of pay and allowances from 17.09.2006 with interest till she was allowed to resume her duties. He further contends that principle of natural justice were not followed before passing termination order dated 16.09.2006. He therefore, prays that the present appeal be allowed.

5. Per contra, learned counsel for respondent contends that the appellant was engaged as primary teacher against unaided post and she never challenged her termination order dated 16.09.2006. He therefore contends that the appeal filed by the appellant be dismissed.



**SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES IN
RSA-2224-2013:**

6. In RSA-2224-2013, learned counsel for the appellant contends that both the Courts have failed to appreciate the very fact that respondent-Gurwinder Pal Kaur was originally engaged as primary teacher against unaided post and thereafter as a clerk against unaided post and the respondent has not challenged her termination order dated 16.09.2006. He further contends that both the Courts have not properly appreciated the version contained in the written statement. He, therefore, prays that the present appeal be allowed.

7. Per contra, learned counsel for respondent contends that civil suit filed by her has rightly been partly allowed by Civil Judge (Junior Division) Bathinda. He therefore, prays that the present appeal be dismissed.

8. I have heard learned counsel for the parties and have perused the whole record of the case with their able assistance.

ANALYSIS OF RECORD:-

9. A perusal of the record shows that admittedly, Gurwinder Pal Kaur was not engaged under rules. She did not even fulfill the qualification as a teacher. Her qualification was +2. She did not even fulfill the qualification to be engaged as clerk. She was never entrusted the duties of accounts. She was engaged as teacher by previous Managing Committee, which lasted till 16.09.2006. When new Committee came into existence, she was relieved from the post. Gurwinder Pal Kaur did not challenge termination order dated 16.09.2006. Admittedly, Gurwinder Pal Kaur was not possessing the requisite qualification and the findings given by both the Courts that she should have been given opportunity of being heard is not



acceptable to this Court since once the person is not qualified, there is no question of hearing him/her. Further she was engaged without following proper procedure against unaided post and not against aided post.

10. Further perusal of the record shows that she resumed her duty as clerk on 01.02.2006 and on 16.09.2006, when new Committee came into existence, she was relieved, since she was illegally engaged and she was not eligible and was not having requisite qualification. The school, where she was engaged was a government aided school but the engagement of Gurwinder Pal Kaur as a teacher as well as a clerk was against unaided post. No post was advertised and she was not engaged on the aided post but was engaged by way of resolution by the Managing Committee against unaided post, therefore, she could be terminated any time.

CONCLUSION:-

11. In the present case, Khalsa Senior Secondary School, Bathinda, is aided school and getting grant-in-aid to the extent 95% from State of Punjab and the salary to its employees is given from that amount. Further, there are specific aided posts as well against which the grant is given. Gurwinder Pal Kaur was working against unaided post, therefore, no right accrued to her as per the rules and a person engaged against unaided post is at the will of the management, who can be removed at any point of time.

12. In the present case, Gurwinder Pal Kaur was engaged by the management by passing a resolution against unaided post. Further there was no advertisement, therefore, judgment and decree dated 13.05.2011 decreeing the suit filed by Gurwinder Pal Kaur and directing respondent-Management Committee to let her join on the post is unsustainable in the



eyes of law. As held by both the Courts that no show cause notice was given, that is not acceptable to this Court, since the appellant was engaged on purely contractual basis against unaided post and by way of resolution. There was no advertisement and proper procedure was not followed while engaging the appellant. Further, once admittedly appellant was not engaged after following proper procedure and was engaged against unaided post, which is creation of management itself and for which no grant is received by the management, the management can remove the person without any show cause notice. Further appellant Gurwinder Pal Kaur in RSA-716-2014 did not fulfill the eligibility as well, since she did not have requisite qualification.

13. In view of the above, RSA-2224-2013 filed by Khalsa Diwan is allowed. And judgment and decree dated 13.05.2011 passed by Civil Judge (Junior Division) Bathinda is hereby set aside. Accordingly, RSA-716-2014 filed by Gurwinder Pal Kaur is dismissed.

14. Decree sheet be drawn.

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

September 15th, 2025

Ayub

**(SUDEEPTI SHARMA)
JUDGE**

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