

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

RSA No.4762 of 2011 (O&M)

Date of decision : 5.11.2015

Hardev Singh

... Appellant

versus

State of Punjab and others

... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: None for the appellant.

Rajesh Bindal, J.

The plaintiff is before this Court against concurrent findings of fact recorded by both the Courts below whereby suit for declaration and mandatory injunction filed by him was dismissed.

In the case in hand, the plaintiff filed the suit for declaration claiming that he is entitled for grant of annual increment due on 1.1.1981 and 1.1.1982 of the suspension period and crossing of efficiency bar with effect from 1.1.1983 and grant of proficiency step up and other consequential benefits and mandatory injunction directing the defendants to release service benefits with interest @ 18% per annum. The plaintiff joined PWD B&R Department on 10.4.1970. During service from 5.6.1980 to 8.6.1982, he remained suspended. Punishment of stoppage of one increment was imposed on him. His work and conduct remained unsatisfactory. He got voluntary retirement on 30.4.1999. The defendants has resisted the claim of the plaintiff by raising the plea that the plaintiff had received the suspension allowance and his period of suspension was treated as leave of the kind due. The defendants had granted whatever was due to the plaintiff. He was designated Extra Assistant Engineer vide order dated 4.8.2003. The plaintiff after retirement left the country and filed the present suit through his attorney. The attorney while appearing in the witness box could not depose about the details of the case and further could not be cross-examined effectively being not privy to the facts of the case. After considering the

evidence led by the parties, both the Courts below dismissed the suit of the plaintiff.

From the facts noticed above, it is evident that the suit was filed by the appellant after he had already sought voluntary retirement and left the country. The suit was filed through attorney, who had appeared in the witness box. The attorney did not have personal knowledge about the facts of the case. He could not be cross-examined properly. The appellant seems to be too greedy as issues, which could be raised, decades back and prior to seeking voluntary retirement, were raised when the appellant was no more in service and had left the country.

Considering the aforesaid facts, I do not find any reason to interfere with concurrent findings of fact recorded by both the Courts below. No substantial question of law arises. The appeal is accordingly dismissed. Consequently the accompanying applications are also dismissed.

5.11.2015
vs

(Rajesh Bindal)
Judge