

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 2637 of 2013

Date of decision : May 07, 2015

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Roshan Lal Ahuja

.....Appellant

Versus

Haryana State and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Joginder Pal Sharma, Advocate for the appellant.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

Present regular second appeal has been filed against the judgment and decree dated 26.2.2013 passed by the District Judge, Bhiwani whereby appeal against the judgment and decree dated 11.8.2010 passed by the Additional Civil Judge (Senior Division), Bhiwani was dismissed. Vide the trial Court judgment, suit of the appellant-plaintiff (hereinafter referred to as 'the plaintiff') was dismissed.

The plaintiff filed a suit seeking the relief of declaration that after serving for 14 years i.e w.e.f 5.7.1959 to 24.3.1974, he was entitled for prorata service pension after he tendered his resignation on 24.3.1974. The suit of the plaintiff was dismissed by the trial

Court being time barred by observing that the plaintiff resigned from the service on 24.3.1974 and thereafter filed the present suit in the year 2009 after a lapse of thirty five years.

An appeal against the judgment of the trial Court was also dismissed. Appellate court made reference to Rule 3.17A (d) of the Punjab Civil Service Rules, Volume II, Part – I which was relevant for decision of this case. The instant rule has been the basis for denial of pensionary benefits to a government employee, who has resigned from service and same rule is being reproduced hereunder:

“3.17 A (d) : Resignation from the public service or dismissal or removal from it for misconduct, insolvency, inefficiency, not due to age, or failure to pass a prescribed examination will entail forfeiture of past service in terms of Rule 4.19(1) of the Punjab Civil Services Rules Vol.II.”

As per the above said rule, the Government servant who resigns from service will forfeit his past service. In other words, the entire service rendered by an employee who has severed his relationship with his employer by virtue of his resignation stands completely forfeited and as such cannot be made the basis of claiming pensionary benefits.

A Full Bench of this Court in **State of Haryana and others vs. Dr. (Mrs.) Sudha Seth (RSA No. 13 of 2009 decided on 18.9.2009)** held that since the qualifying service of respondent Dr. (Mrs.) Sudha Seth at the time of acceptance of her resignation was

not 25/30 years or more and she cannot as a matter of right claim retiral benefits consequent upon her resignation from the government service as she rendered qualifying service to the tune of only 18 years. This view was expressed by Full Bench of this Court on the basis of the judgment of Hon'ble the Supreme Court of India in **Ghanshyam Dass Relhan vs. State of Haryana 2009 (3) SCT 617**, wherein the Government employee rendered 18 years of service under government of Haryana. He resigned from the post and joined Central Bank from where he retired on superannuation. Employee claimed pension from the Government. It was held that a Government employee is entitled to a retiring pension on his resignation being accepted if he completes qualifying service of not less than 30 years. In instant case employee has not completed the qualifying service of 30 years. Services rendered by him with the Bank would not be counted towards government service. Employee was not entitled to the benefit of pension.

The case of the present appellant is covered by the cases of **Dr. (Mrs.) Sudha Seth (supra) and Ghanshyam Dass Relhan (supra)**. In view of all that has been discussed above, there is no illegality and infirmity in the judgments passed by the Courts below. No substantial question of law arises for consideration in this regular second appeal. Hence the same is dismissed.

May 07, 2015
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(**RITU BAHRI**)
JUDGE