

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

106

Regular Second Appeal No.4174 of 2013 (O&M)

Date of Decision: November 05, 2015

Phool Singh

...Appellant

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Nonish Kumar, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.11282-C of 2013

Prayer in this application is for exemption from filing the certified copy of judgment and decree dated 20.07.2010 passed by learned Civil Judge (Junior Division), Mohindergarh.

Application is allowed.

Exemption from filing the certified copy of judgment and decree dated 20.07.2010 passed by learned Civil Judge (Junior Division), Mohindergarh, is granted subject to all just exception.

RSA No.4174 of 2013

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Mohindergarh, dated 20.07.2010, by which the suit of the appellant-plaintiff for declaration that the order of discharge dated 01.05.1993 passed by the Commandant, 9th Battalion I.T.B.P., Ramgarh, Ambala-respondent-defendant No.4, is illegal and unsustainable and, therefore, he is entitled to reinstatement with consequential benefits along with interest, stands dismissed, appeal against which preferred by the appellant-plaintiff has also been dismissed by the

Additional District Judge, Narnaul, on 16.04.2013.

2. It is the contention of learned counsel for the appellant-plaintiff that the appellant-plaintiff had joined service on 28.01.1988. He had gone on sanctioned leave and due to unavoidable circumstances, he got late by one hour to resume duty after the leave. Because of this late reporting, he was not allowed to join duty and forced to sign some blank papers. These blank papers were converted into his request for voluntary discharge from service. He, thus, contends that the order of discharge is not sustainable as the same is based upon a document, which is a forged one and prepared on the blank papers, which were got forcibly signed from the appellant-plaintiff. He further contends that the findings recorded by the Courts below that the suit of the appellant-plaintiff is barred by limitation also cannot sustain as after his order of discharge, he had been approaching the respondents-defendants and was assured that his matter is being considered for taking him back in service but when it did not finally materialise, the suit has been filed by him. He accordingly contends that the judgments and decree passed by the Courts below cannot sustain.

3. I have considered the submissions made by learned counsel for the appellant-plaintiff and with his assistance, have gone through the impugned judgments but unfortunately none of these submissions can be accepted.

4. The first assertion of learned counsel for the appellant-plaintiff is that the impugned order dated 01.05.1993 showing it to be a voluntary discharge at the request of the appellant-plaintiff being based upon a document, which is a forged and fabricated one and has been prepared on a blank paper, which he was forced to sign, cannot be accepted as it is neither

the part of the pleadings nor is it a part of the affidavit which has been submitted by him in his evidence.

5. On the other hand, the respondents-defendants have been able to prove the discharge order Exhibit P-1 to be of the appellant-plaintiff at his request. Even in the cross-examination of the witnesses, who had appeared on behalf of the respondents, there is no suggestion given with regard to the aspects as to whether the blank papers were got signed from the appellant-plaintiff and the discharge order has been prepared as a forged and fabricated document on signed blank papers. The findings, thus, recorded by the Courts below on this aspect, cannot be faulted with.

6. That apart, it is an admitted position that the order of discharge is dated 01.05.1993 and the first suit which was preferred by the appellant-plaintiff, was in the year 2002, which was withdrawn with permission to file a fresh one, which was filed in the year 2005. There is not even a written representation submitted by the appellant-plaintiff to the respondents against the order of discharge dated 01.05.1993 and there are bald assertions of the appellant-plaintiff that he had been approaching the respondents-defendants and that he had been assured that he will be taken back in service. Nothing has come on record to explain the reason as to why the appellant-plaintiff had not approached the Court prior to the year 2002. The findings, thus, on this aspect that the suit of the appellant-plaintiff is barred by limitation, also cannot be faulted with.

7. Both the Courts below have returned concurrent findings in detail after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

8. No substantial question of law is involved in the present

appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

November 05, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**