

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

RSA No.4194 of 2013 (O&M)

Date of decision: 03.12.2015

Dr. Naresh Goyal

... Appellant

Vs.

Sh. Dhanwantri Educational Society and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Sanjiv Bansal, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff is in Regular Second Appeal against the concurrent findings of facts and law, whereby, the suit for declaration that resolution dated 19.06.2000, order of removal dated 21.06.2000 and order dated 04.10.2001 are null, void and against the statutory provisions of Panjab University Chandigarh, as well as, the Rules of Central Council of Indian Medicine, and that the order dated 03.07.2001 being not binding upon the plaintiff, has been dismissed and suit for mandatory injunction directing defendant No.1 to follow the rules and regulations as framed by defendants No.2 and 3 from time to time, has been dismissed.

Mr. Sanjiv Bansal, learned counsel appearing on behalf of

the appellant-plaintiff submits that appellant along with two other persons was appointed as Resident Medical Officer. Owing to the administrative reasons, the aforementioned posts were abolished. However, the appellant along with two other persons was appointed on the post of Ayurvedic Medical Officer and to this effect, there was a categorical pleading in paragraph No.8 of the plaint, much less, in the affidavit furnished by way of examination but there was no denial of the same in the written statement and in view of such situation, the Courts below ought to have taken the aforementioned submission as vague and evasive denial, thus, the averments made in the corresponding paragraph deemed to have been admitted, as no such posts were advertised, thus, there is illegality and perversity in the findings rendered by the Courts below.

I have heard learned counsel for the appellant-plaintiff and appraised the impugned judgments and decrees of the Courts below.

It is settled law that the plaintiff has to stand on his own legs and has to discharge the onus as per Section 101 of the Indian Evidence Act.

I have gone through the examination of the plaintiff, which is relied upon to suggest that in the absence of the cross examination, statement made deemed to have been admitted. It is borne out that a specific question was put vis-a-vis implementation and the same was denied and it was the duty of the appellant to

implead the other two persons or to seek the information under Right to Information Act whether the aforementioned persons are appointed on regular posts or on contract basis. However, no effort has been made. In my view, the aforementioned persons should have been impleaded. Assuming for an argument sake, the Court inclined to grant relief and it could not have granted the same in the absence of such persons, thus, the suit is also not maintainable for want of non-joinder of necessary parties.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises to be adjudicated by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 03, 2015
savita