

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

**Regular Second Appeal No.341 of 2015 (O&M)
Date of Decision: 28.01.2015**

Smt. Ruman Devi

..... Appellant

Vs.

Parveen Lata and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ashwani Bhardwaj, Advocate for the appellant.

Mr. S.S.Duhan, Advocate for the respondents/Caveator.

JASWANT SINGH, J. (ORAL)

The appointed Aanganwari Worker-Smt. Ruman Devi/defendant No.4 is in second appeal against the concurrent findings returned by both the Courts below, whereby the suit for declaration and injunction filed by the respondent/plaintiff-Parveen Lata (a wait listed candidate) has been decreed, vide judgment and decree dated 28.09.2013, passed by the learned Civil Judge (Jr. Divn.), Hisar and the appointment of the appellant-Ruman Devi/defendant No.4 was set aside while directing the appointment of plaintiff-Parveen Lata on the said post; further challenge is to the judgment and decree dated 09.01.2015, passed by learned Additional District Judge, Hisar, whereby the findings have been affirmed while dismissing the appeal of the appellant-Ruman Devi.

The undisputed facts are that for the solitary post of Aanganwari worker in the category of backward class for appointment at Village Bhatol Jatan, Tehsil Hansi, District Hisar, there were five aspirant candidates. Upon declaration of the result, Smt. Ruman Devi was put at Sr. No.1 of the selection list having secured 62 marks whereas Parveen Lata was put at Sr. No.1 in the waiting list having secured 61 marks.

The plaintiff-Parveen Lata filed a suit assailing the appointment of Smt. Ruman Devi by impleading her as defendant No.4 in the plaint *inter alia* on the ground that the marks while preparing the selection list had been altered so as to place Smt. Ruman Devi at Sr. No.1 of the Selection list and the plaintiff as the next in the merit.

Upon the pleadings of the parties, three relevant issues were framed, which reads as under:-

- (i) *Whether the selection of defendant No.4 on the post of Anganwari worker is against rules and instructions and illegal and liable to be set aside? OPP*
- (ii) *Whether the plaintiff has not been given/awarded marks as per selection criteria and she is entitled for awarding higher marks as claimed by her? OPP*
- (iii) *Whether there is tampering/cutting in the list of marks awarded and the same is unauthorized and unapproved by Selection Committee, thus illegal? OPP.*

The plaintiff proved on record the photocopy of the marks obtained by the candidates, as awarded by the Selection Committee as Ex.P-7, which revealed overwriting and alteration in the marks awarded to Ruman Devi so as to inflate her marks and also over-cuttings to show deflating the marks of Parveen Lata.

To rebut the evidence of the plaintiff, the defendants examined DW-1- Smt. Nirmal Grover, CDPO, Hansi, who was one of the Members of the Selection Committee. In her cross-examination, she admitted that there were over-writings in the columns of the total marks and in the columns of interview of Ex.P-7, which did not contain any initials of the Officer making such over-cutting/writing. She admitted the procedure of affixing initials on such cuttings and corrections.

Learned trial Court while evaluating the evidence on aforesaid issues No.1 to 3 deciding the same in favour of the plaintiff and against the defendants, observed as under:-

“ *The contention of the learned counsel for plaintiff that on perusal of interview marks which has been given in Ex.P7 and the interview marks awarded to the defendant No.4 had been interpolated from 7 to 9 and the total marks had been amended from 60 to 62 was by way of interpolation on behalf of defendants No.1 to 3 is tenable to the extent that it can be observed from the naked eyes that the numeral 7 has been interpolated and converted into numeral 9 and marks 60 has been structured in such a way that the numeral 0 has been converted into numeral 2. Moreover, the defendant No.1 who appeared as DW1 admitted in her examination-in-chief that rectification in total marks was made in the marks-sheet and there was no cutting, overwriting over the selection list, but in her cross-examination, she specifically admitted that there was an overwriting in the column of marks of interview of both plaintiff and defendant No.4 and she herself stated that these over writings might have been made by ADC-Chairman and Programme Officer, She also specifically admitted that there was no initials on the overwriting in the document Ex.P6 and Ex.P7. She also specifically stated that in the original of Ex.P7, the interview marks for plaintiff and defendant No.4 were altered. She also deposed that if there was any cutting or correction over any document then that must be initiated by the person who made cuttings, therefore, an adverse inference is drawn against the defendants as no initials was done over the alleged interpolations or/overwriting or cuttings. Further, this Court observed that in the interview column of Ex.P7, the marks of plaintiff were decreased from 6 to 5 and the marks of defendant No.4 were increased from 7 to 9. From the comparison of numeral 9 of total marks 59 obtained by Rekha and interview marks 9 obtained by Smt. Ruman Devi, both numeral are not similar in structure, because these two marks were to be awarded by same person.*

As a result of foregoing discussion, this Court is of the view that the plaintiff is successful in proving the fact that the marks of defendant No.4 in interview has been interpolated by defendants and same has been increased from 7 to 9 and that of plaintiff was decreased from 6 to 5. Hence, these issues are decided in favour of plaintiff and against the defendants. ”

Dissatisfied against such findings, the appellant-Ruman Devi filed an appeal, which was dismissed by affirming the findings recorded by the learned trial Court. The learned lower Appellate Court on evaluation of the evidence on the said issues in Para No.15 as recorded as under:-

“ *Perusal of Ex.P7 shows that there are five candidates who*

have appeared in the interview for the post of workers in Anganwari and out of the five candidates only an alteration was made in the column of marks in the interview and in the column of total numbers of marks given to two candidates only i.e. Plaintiff Parveen Lata wife of Narsi and defendant No.4 Ruman Devi wife of Manjeet. Perusal of Ex.P7 further shows that marks given to the defendant No.4 in the interview had been changed from 7 to 9 and consequently total number of marks has also been increased from 60 to 62. While in the column of interview against the plaintiff Parveen Lata the marks in the interview was changed from 6 to 5 and consequently the total number of marks was changed from 59 to 61. These facts was even also admitted by DW1 in her cross examination in which she has admitted that there was an overwriting in the column of marks of interview of both the plaintiff as well as defendant No.4. She further admitted that these overwriting might have been made by the ADC-Chairman and Programme Officer. She further admitted that there was no initials of the members of Selection Committee on the said overwriting. It appears that in order to select defendant No.4 the aforesaid alteration was made but the said alterations were not initialed by all the members of the selection committee though Ex.P7 is signed by all the members of the selection committee in the lower part of Ex.P7. The Court can take judicial notice of these facts as it is apparent on the fact of Ex.P7. From the judicial notice of these facts it appears that the aforesaid alterations were made to the prejudice of plaintiff in order to select the defendant No.4. The perusal of Ex.P7 further shows that plaintiff was given additional 3 marks on account of having experience as per instructions Ex.P4 but despite that number of marks in the interview was initially given as 6 which was changed to 05, therefore, total number of marks obtained by the plaintiff is 61. The aforesaid alteration was made in order to de-select the plaintiff. ”

At the time of hearing, learned Counsel for the appellant has failed to point out any perversity in the aforesaid finding of fact on the issues No.1 to 3 recorded by both the Courts below.

Hence, this Court finds no ground to interfere in the present appeal, the same is hereby dismissed.

January 28, 2015
Gagan

(JASWANT SINGH)
JUDGE