

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 1129 of 2014 (O&M)

Date of decision : May 07, 2015

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Ramrup Singh Hooda

.....Appellant

Versus

Haryana State Agricultural Marketing Board.

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. N.C Kinra, 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

C.M No. 2575-C of 2014

For the reasons mentioned in the application, delay of 24 days in filing the appeal is condoned.

C.M is allowed.

RSA No. 1129 of 2014

Present regular second appeal has been filed against the judgment dated 7.6.2012 passed by the Civil Judge (Senior Division), Panchkula, whereby the suit of the appellant-plaintiff (hereinafter referred to as 'the plaintiff') was dismissed and the judgment dated 4.10.2013 passed by the District Judge, Panchkula whereby an appeal against the judgment of the trial Court was dismissed.

The plaintiff Ramrup Singh approached the civil Court seeking a decree for mandatory injunction inter alia alleging that he is permanent employee of respondent-defendant (hereinafter referred to as 'the defendant'), Haryana State Agricultural and Marketing Board and is permanently posted under the control of the Market Committee, Yamuna Nagar and he was given retrospective promotion as Auction recorder w.e.f 2.9.1986 at par with promotion which was given to his junior Rajbir Singh Dahiya and others vide order dated 9.3.2005 on the directions of the Civil Court dated 1.6.2004. It was further alleged that although the date of promotion of plaintiff as Auction Recorder was preponed from 24.12.1999 to 2.9.1986 vide order dated 9.3.2005 but arrears of such retrospective promotion were allowed from 24.5.1996 onwards and was restricted to 36 months in terms of judgment and decree date 1.6.2004 passed by the learned Additional District Judge, Jagadhri. A detailed representation dated 1.5.2009 was given by the plaintiff for review and modification of order dated 9.3.2005 as the defendant had already given pay and allowances to his junior Rajbir Singh Dahiya w.e.f 2.9.1986 vide order dated 26.8.2008 on the date from which the plaintiff was given notional promotion and thus the plaintiff is also entitled to full pay for the entire period.

The plaintiff had earlier filed a civil suit in the Court at Jagadhari and that civil suit was decreed vide judgment. However, on appeal vide judgment dated 1.6.2004, the judgment and decree dated 18.11.2002 was modified to the extent that the right to claim

arrears for the period prior to 38 months before the filing of the suit was only the relief to be given to the plaintiff and the other relief claimed by him for the arrears for the period prior to that was barred by limitation. This decision of the lower appellate Court became final as no appeal was filed thereafter.

The suit claiming the same relief i.e arrears of pay and allowances for the period from 2.9.1986 to 24.5.1996 with interest was filed on 18.5.2010 after a gap of almost eight years when the earlier judgment dated 18.11.2002 had attained finality. There was no fresh cause of action with the plaintiff to file the aforesaid suit. Hence the suit was dismissed by both the Courts below being barred by the ***principle of res judicata***.

After hearing counsel for the appellant, no ground is made out to interfere in the judgments passed by the Courts below as vide the judgment dated 18.11.2002 which has attained finality, the benefit has been extended to strictly restricting the claim of the appellant-plaintiff to 38 months arrears. The suit is barred by the ***principle of res judicata***.

In view of all that has been discussed above, present regular second appeal is dismissed.

May 07, 2015
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(RITU BAHRI)
JUDGE