

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 5541 of 2014 (O&M)
Date of decision:- 06.04.2015

Gurkirtan Singh ...Appellant
Versus

State of Punjab & others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. S.K. Chawla, Advocate
for the appellant.

RITU BAHRI J.

C.M. No. 13151-C of 2014

For the reasons mentioned in the application,
delay of 151 days in re-filing the present appeal is
condoned.

The application stands disposed of accordingly.

R.S.A No. 5541 of 2014

The present regular second appeal is directed
against the concurrent finding of facts recorded by both the
Courts below whereby the suit of the plaintiff-appellant (for
short 'appellant'), was dismissed.

The appellant filed a suit for mandatory injunction
for issuance of appointment letter to him against his posting
as Panchayat Secretary or any other such Class-III suitable
job in view of the fact that Mr. Kaur Singh, Panchayat
Secretary working in Panchayat Samiti, Faridkot expired/died
away while in active service of the defendants/respondents

(for short 'the respondents').

The appellant (son of Mr. Kaur Singh, Panchayat Secretary) was born on 27.08.1982. Mr. Kaur Singh died on 27.08.1996, who was working in Panchayat Samiti, Faridkot and expired/died away while in active service of the respondents. The appellant was 25 years of age when the suit was filed. He has got the liability of five sisters, though married but the appellant has the responsibilities towards his married sisters to arrange gifts and other items on all the festivals and occasions. Pursuant to the letter written by the Executive Officer, Panchayat Samiti on 11.02.2000, the appellant and his mother gave their necessary details in the proforma and the case of the appellant for compassionate appointment was recommended to the Director, vide letter dated 24.04.2000, with a copy to the mother of the appellant (P-2). Thereafter, D.C Faridkot recommend the case of the appellant on 22.03.2000 to the BDPO, Faridkot with a copy to the mother of the appellant but till date, the appellant has not been appointed.

On notice, the respondents filed their joint written statement and took a preliminary objection that the suit of the appellant is not maintainable. A notice under Section 80 CPC has not been served upon the respondents. The appellant was not eligible to get appointment on compassionate ground, as per policy of the Government and

as per law laid down by Hon'ble the Supreme Court in a case of ***Umesh Kumar Nagpal vs. State of Haryana and others, 1994 (4) SCC 138***. The appellant is not indigent person and does not deserves any immediate assistance for relief from financial destitution, as the appellant and his family is having sufficient agriculture land measuring 78 kanals inherited from deceased employee i.e 52 kanals of land by the appellant and 26 kanals of land inherited by Harbans Kaur mother of the appellant, from deceased employee.

The suit of the appellant was dismissed by the trial Court on two grounds:-

1. As per deposition of Chhatarpal Singh, DW1, the appellant was having sufficient property in his name to maintain him. The respondents and their officials have never assured the appellant to give appointment on compassionate ground. In view of the policy of the Government dated 05.02.1996 and in view of Umesh Kumar Nagpal's judgment (supra), the appellant was not found eligible.
2. The father of the appellant died on 27.08.1996 and the suit was filed in the year 2007 i.e after a gap of 11 years from the date of death of his father. The object of giving compassionate appointment is to help the family members at the time of distress by giving a job to the legal heirs. Since, the appellant had chosen to file a suit after a gap of

11 years, the period of distress has already gone by. The Departmental Committee had rejected the case of the appellant as per Ex P1 on the ground that there was sufficient land in the name of the appellant and his mother and his case does not fall as per condition No. 6 of the policy of the Government, which reads as under:-

“The family is indigent and deserves immediate assistance for relief from financial destitution. The authority concerned must consider as to whether the family of the deceased employees is unable to meet the financial crisis resulting from employee's death”

On appeal, the Lower Appellate Court affirmed the findings of the trial Court keeping in view that the fact that the appellant and his mother has sufficient land and after the death of his father, they can look after themselves as well as the married sisters of the appellant. Further, the suit has been filed after a gap of 11 years from the death of his father, which shows that the appellant was not in need of money.

The judgments passed by both the Courts below, calls for no interference. No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed.

April 06, 2015
G Arora

(RITU BAHRI)
JUDGE