

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

**Regular Second Appeal No.627 of 2014 (O&M)
Date of decision:20.04.2015**

Jaswinder Singh

.....Appellant

Versus

Union of India and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Upender Prasher, Advocate,
for the appellant.

Ritu Bahri, J.

CM Nos.1449-1450-C of 2014

For the reasons mentioned in the applications, same are allowed and delay in filing and refiling of the appeal is condoned.

RSA No.627 of 2014

Plaintiff-appellant has come up in regular second appeal against the judgments of concurrent findings of fact recorded by both the Courts below i.e. Addl. Civil Judge (Senior Division), Ambala and the Additional District Judge, Ambala, whereby his suit for mandatory injunction has been dismissed.

Jaswinder Singh-plaintiff (appellant herein) filed a suit for mandatory injunction directing the defendants-respondents to appoint him as Class-IV employee in the department on compassionate grounds and to pay wages from the date of death of his father-Jawala Singh, who was working under Garrison Engineer, North, Ambala, as Chowkidar. As per plaintiff,

the condition of his family was not good and all the family members, including his brothers and mother, were dependent upon him. He moved an application to the department on 10.07.2001, whereupon he was asked to submit certain documents i.e. ration card, affidavits of his brothers and mother, photographs etc. He had submitted those documents to the department. Vide letter dated 19.05.2005, he was informed that his case had not been approved by the Board of Officers.

Upon notice, defendants-appellants filed written statement and controverted the allegations levelled by the plaintiff. It was submitted that the claim of the plaintiff-appellant had been disapproved as per DOP&T guidelines. The family of late Jawala Singh was given all the death benefits as under:-

(a) Pension	:	Rs.1770/- per month
(b) GPF	:	Rs.1,08,270/-
(c) Gratuity	:	Rs.1,50,420/-
(d) Leave Encashment	:	Rs.21,628/-
(e) CGEIS	:	Rs.19,264/-

It was denied that the deceased had left no movable or imovable property, as the mother of the plaintiff had given an affidavit to the defendants-respondents regarding ownership of one house comprising three room set in village Rattanheri, District Ambala.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether defendants should be directed to appoint plaintiff as Class-IV employee on compassionate grounds? OPP
2. Whether the suit of plaintiff is not maintainable in the present form? OPD
3. Whether plaintiff has no locus standi to file the present suit? OPD

4. Whether civil court has no jurisdiction to entertain and try the present suit? OPD
5. Whether the suit of the plaintiff is time barred? OPD
6. Relief.

Both the Courts have decided against the plaintiff-appellant. Hence, this appeal.

Jawala Singh, father of the plaintiff-appellant, had expired on 24.11.2000 and the present suit was filed in the year 2006 seeking appointment on compassionate ground. Vide order/letter dated 19.05.2005, Ex.P1, the concerned authorities had conveyed that Smt. Kartar Kaur, mother of the plaintiff, was getting family pension at the rate of Rs.1275/- per month and she had also received Rs.2,77,954/- as terminal benefits + LEC. It was found that plaintiff did not deserve employment assistance on compassionate ground to tide over the emergency. Moreover, there was non availability of sufficient vacancies within 5% quota, which was prescribed for appointment on compassionate ground. The object of grant of employment on compassionate ground is to enable the family of the deceased employee to overcome the immediate hardship faced by it on his death. As per letter dated 19.05.2005, Ex.P1, conveyed to the mother of plaintiff, she was receiving pension at the rate of Rs.1275/- per month and she had also received Rs.2,77,954/- as terminal benefits + LEC. Moreover, in the absence of any vacancy within 5% quota, the plaintiff could not claim, as a matter of right, for appointment on compassionate ground. Since, there was no post available under the quota, the suit of the plaintiff-appellant has been rightly dismissed by both the Courts below.

After going through the judgments passed by the Courts below, no

illegality, much less perversity, has been found therein, warranting

interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

20.04.2015

ajp

(RITU BAHRI)
JUDGE