IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M. NO.5477 C of 2011 & 309 C OF 2016 &
R.S.A. NO.1957 OF 2011
DATE OF DECISION: FEBRUARY 27, 2016

Smt.Jyoti Rani @ Jagiro Devi (since deceased) through her L.Rs

.....Appellant

VERSUS

The State of Haryana and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

Present: Mr. Parminder Singh, Advocate,
for the appellant.

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AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.309-C of 2016

Prayer in this application is for restoration of the appeal, which was dismissed for non-prosecution vide order dated 01.12.2015 passed by this Court. The said application is duly supported by an affidavit of the counsel.

For the reasons mentioned in the application, the same is allowed and the appeal is restored to its original number. The appeal is taken on board today for hearing.

C.M. No.5477 C of 2011

Application is allowed.

Exemption is granted from filing the certified copy of the judgment and decree dated 01.11.2010.

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R.S.A. No.1957 of 2011

Challenge in this appeal is to the judgment and decree dated 01.11.2010 passed by the Civil Judge (Junior Division), Ambala Cantt., whereby the suit for declaration filed by the appellant-plaintiff that she is entitled to appointment in service in lieu of death of her husband, Sh.Jagdish Lal, Clerk in Cantonment Board, Ambala Cantt. alongwith benefit of service, including interest etc., stands dismissed, appeal against which preferred by her has also been dismissed by the Additional District Judge, Ambala on 08.01.2011.

It is the contention of learned counsel for the appellant that since husband of the appellant died in harness, she is entitled to compassionate appointment on a Class IV post. He further contends that as per the instructions of the Ministry of Defence, 5% posts are reserved for appointment on compassionate ground. Therefore, the appellant (who has also died) was entitled to the decree as prayed for as she admittedly was otherwise eligible for appointment under the said quota but no benefit has been conferred on her. He submits that the inaction on the part of the respondent-defendants would not disentitle the deceased appellant from her claim, which is conferred on her as per the instructions of the respondent-Ministry of Defence. Prayer has, thus, been made for setting-aside the impugned judgments and decree and decreeing the suit of the appellant-plaintiff.

I have considered the submissions made by learned counsel for the appellant and have gone through the impugned judgments but cannot accept the same in the light of facts and circumstances as have come out on the basis of the pleadings and the evidence brought on record.

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The respondent-defendants have admitted that 5% posts are reserved for appointment on compassionate grounds. The total number of Class IV posts in the Cantonment Board are 31. As per 5% reservations, out of 31 posts, 2 posts come in the said quota, on which two persons have already been appointed on compassionate ground i.e. one in the year 1994 and another in the year 2000 and after 15.02.2000, no person has been appointed on compassionate ground. The husband of the appellant had died on 15.02.2003 and thereafter no vacancy has arisen, which would entitle the appellant-plaintiff for consideration for appointment on compassionate ground. It is not the case of the appellant-plaintiff that any person, who had died after the death of her husband, his/her legal heir has been given appointment under the compassionate quota. In view of the above, the findings, as recorded by the Courts below, cannot be faulted with.

Both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

No other point has been argued by learned counsel for the appellant-plaintiff.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

February 27, 2016 **(AUGUSTINE GEORGE MASIH)**
khurmi **JUDGE**

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