

In the High Court of Punjab and Haryana at Chandigarh

RSA-4519-2013

Date of Decision: 15.1.2016

RAJ KUMAR

....Appellant

V/S

STATE OF HARYANA & OTHERS

....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

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

SABINA, J.

Appellant had filed suit for declaration seeking appointment on compasnionate basis,

The case of the appellant, in brief, was that Subhash Chand,father of the appellant was working with the defendants and had died on 3.2.1992 while in service. Mother of the appellant applied for appointment of her son on compassionate basis but the said request was declined by the defendants vide letter dated 17.11.1992 as at that time appellant had not completed the age of 17 years. Thereafter, when the appellant attained the age of 17 years in the year 1998, he made a request for appointment on compassionate basis. However, the said request was declined on the ground that the policy prevailing at the relevant time did not entitle the appellant

for appointment on compassionate basis but he could claim ex-gratia amount.

Defendants, in their written statement, admitted the fact that the father of the appellant had died while in service with them on 3.2.1992,. It was also admitted that the mother of the appellant had applied for appointment of her son on compassionate basis but the appellant was a minor at that time. However, as per Government instructions dated 8.5.1995, appellant was not entitled for appointment on compassionate basis and he was informed in this regard vide letter dated 6.4.1998.

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

- “1.Whether the plaintiff is entitled to get the appointment and in addition to exgratia benefits, the plaintiff is entitled for compensation as claimed for?OPP
- 2.Whether the present suit is not maintainable?OPD
- 3.Whether the plaintiff has no cause of action to file the present suit?OPD
- 4.Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment and decree dated 28.7.2012 decreed the suit of the appellant. However, in appeal filed by the defendants, judgement and decree passed by the trial Court were set aside by the First Appellate Court and the suit filed by the appellant-plaintiff was ordered to be dismissed vide judgement and decree

dated 31.8.2013.. Hence, the present appeal by the plaintiff.

I have heard the learned counsel for the appellant and have gone through the record available on the file carefully.

Learned First Appellate Court, while dismissing the suit of the plaintiff, has considered the fact that the request for appointment on compassionate basis of the appellant was declined by the defendants in the year 1998. However, the appellant remained quiet for a long period and served notice under Section 80 of the Code of Civil Procedure, 1908 on the defendants on 28.11.2008. Thereafter, the suit was filed by the appellant. Since the appellant had not immediately filed the suit, learned First Appellate Court rightly came to the conclusion that the delay in filing the suit gains significance.

In the facts and circumstances of the present case, learned First Appellate Court, thus, rightly dismissed the suit of the plaintiff as the appellant had approached the Court after 10 years of rejection of his claim for appointment on compassionate basis.

No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

**(Sabina)
Judge**

January 15,2016

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