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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4131 of 2014

Date of decision: January 21, 2016

Jasbir Kaur and others

.....Appellants

Versus

Punjab State and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Pradeep Virk, Advocate
for the appellants.

SABINA, J

Appellant had filed suit for declaration to the effect that Ranjit Singh was deemed to be dead as he had not been heard since 01.06.1996, i.e. for more than seven years and challenged the order dated 12.04.2002, whereby, Ranjit Singh was dismissed from service.

The case of the appellants was that appellant No.1 was the wife of Ranjit Singh, whereas, appellants No.2 to 4 were children of Ranjit Singh. Ranjit Singh was working as a Clerk with the defendants and had gone missing on 01.06.1996. Ranjit Singh had not been heard for more than seven years and was deemed to be dead. Defendants had held an *ex parte* inquiry against Ranjit Singh and had passed the order dated 12.04.2002, whereby, he was dismissed from service. The impugned order dated

12.04.2002 was illegal, null and void as the appellants had not been given any opportunity to enable them to put up their case. Appellants had reported to the police on 05.06.1996 that Ranjit Singh had gone missing and a report was lodged on 07.08.2005 at Police Station Khanuwan.

Defendants in their written statement averred that Ranjit Singh had worked as a Clerk in the office of defendant No.1 till 31.05.1996. Ranjit Singh absented from duty w.e.f. 01.06.1996. Departmental inquiry was conducted against Ranjit Singh and the order of his dismissal from service was passed on 12.04.2002.

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

- “1. Whether the plaintiffs are entitled to declaration as prayed for?OPP
2. Whether the plaintiffs are entitled for mandatory injunction as prayed for?OPP
3. Whether the suit is not maintainable?OPD
4. Whether the plaintiffs have no cause of action?OPD
5. Whether the suit of the plaintiffs is time barred?OPD
6. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 17.11.2009 dismissed the suit by the appellants-plaintiffs.

The said judgment/decreed were upheld by the First

Appellate Court in an appeal filed by the appellants-plaintiffs vide judgment/decreed dated 17.04.2012. Hence, the present appeal by the appellants-plaintiffs.

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

In the present case, appellant No.1 Jasbir Kaur lodged the missing report qua her husband Ranjit Singh on 17.08.2005, i.e. after about nine years from 01.06.1996, the date from which, it has been alleged that Ranjit Singh went missing. Although, the case of the appellants was that they had reported to the police on 05.06.1996 that Ranjit Singh was missing but no such report was proved on record. DDR Exhibit D2 qua missing of Ranjit Singh was recorded on 17.08.2005 and thereafter, the suit was filed in the year 2006. Hence, the learned Courts below rightly held that Ranjit Singh could not be presumed to be dead as the appellants were required to seek a declaration in this regard by initiating appropriate proceedings.

So far as the order of dismissal is concerned, the same was passed after holding departmental inquiry. Copy of the charge-sheet was sent by post at the residence of Ranjit Singh as he was absent from duty w.e.f. 01.06.1996. The same was returned undelivered. Thereafter, the factum of initiation of disciplinary proceedings against Rajit Singh

was got published in the newspaper and since none appeared on behalf of Ranjit Singh, *ex parte* proceedings were initiated against him. Appellants were aware of the pendency of inquiry proceedings but they failed to join the same. As per the appellants, Ranjit Singh had not returned home after 01.06.1996. It is the case of the respondents that Ranjit Singh had absented w.e.f. 01.06.1996. It is evident that Ranjit Singh had failed to report for duty w.e.f. 01.06.1996. After following due procedure, Ranjit Singh was ordered to be dismissed from service vide order dated 12.04.2002.

In the facts and circumstances of the present case, the Courts below rightly ordered the dismissal of the suit filed by the appellants as the relief sought by them could not be granted to them.

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

Dismissed.

**(SABINA)
JUDGE**

January 21, 2016
mahavir