

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

RSA No.3839 of 2013 (O&M)
Date of Decision: 15.11.2017

PRINCIPAL HINDU SENIOR SECONDARY SCHOOL EDUCATION
REWARI

....APPELLANT

VS

OMBATI AND ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. M.K.Verma, Advocate
for the appellant.

Mr. Manoj Kaushik, Advocate
for respondent No.1.

Dr. Sushil Gautam, DAG, Haryana.

Mr. R.Kartikeya, Advocate
for respondent No. 3.

AJAY TEWARI, J.(Oral)
CM-10383-C-2013

This is an application for condonation of delay of 08days in refiling
the present regular second appeal.

For the reasons recorded in the application, the same is allowed and
delay of 08 days in refiling the present regular second appeal is condoned.

Main case

This appeal has been filed against the judgment of the lower
Appellate Court reversing that of the trial Court and thereby decreeing the suit
filed by the private respondent.

The facts of the case are that the husband of the private respondent
No.1 was an employee with the appellant which is an aided school. He died
during service and this suit was filed to claim the unpaid portion of his death cum

retiral dues. The trial Court rejected the suit on the ground that the suit for mandatory injunction could not have been filed but only a suit for recovery would lie. The Appellate Court noticing that it was not a debt in that sense but money due on account of death cum retiral dues reversed the finding of the trial Court as regards maintainability and decreed the suit. Counsel for the appellant states that he has no objection to the decree but the fact of the matter is that the money has to be paid by the State of Haryana and consequently, direction should be issued to the State of Haryana. Learned Deputy Advocate General on the other hand states that in cases of grant-in-aid the entire amount may not have to be paid by the State. It cannot be denied that the primary responsibility for paying the money is at the door of the appellant who was the employer, even though it may have a further right to claim it from the official respondents.

In the circumstances, the appeal is dismissed. It is clarified that the appellant would pay the amount in the first instance and then claim it from the official respondent and in case any due amount is not released by the official respondent within a period of 2 months from the lodging of the claim the appellant would be entitled to recover that amount from the official respondents alongwith the same rate of interest as has been granted to the private respondent by the Appellate Court.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

15.11.2017
anuradha

(AJAY TEWARI)
JUDGE_

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No