

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RSA No.4964 of 2015 (O&M)
Date of Decision: 14.03.2017**

Gurjit Kaur @ Sukhjit Kaur

... Appellant

Versus

Deputy Commissioner Ferozepur
and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Puneet Kumar Bansal, Advocate,
for the appellant.

RAJIV NARAIN RAINA, J.(Oral)

Both the Courts below have recorded a finding of fact as to age of the defendant No.5 Kulwinder Kaur by relying on the register of a Government school where her date of birth at the time of admission is recorded as January 07, 1990. If this date of birth is believed then the defendant No.5 was 18 years old when she was selected as Anganwari worker which was the minimum employable age. The appellant is the plaintiff who challenged the appointment of Kulwinder Kaur – defendant No.5 on the ground of being underage. The subsequent discrepancy in recording of age in the 10th Class certificate and in the ration card have not swayed the Courts *a quo* to take a different view than what flowed from the date of birth recorded in the register of the Government Primary School, Nankpura, District Ferozepur.

Findings of fact even if erroneous are not to be interfered with
in Regular Second Appeal so long as they do not give rise to a substantial

question of law. Moreover, the post of Anganwari worker is not a civil post but the guidelines issued by the Government laying down the criteria do postulate that candidates must be within the age of 18 to 44 years.

It is not for the High Court on the second appeal side to re-appreciate the evidence only to reach a different conclusion than the one reasonably arrived at by the two Courts below and, that too, concurrently for good measure. The burden was on the plaintiff to prove that the defendant No.5 was underage at the time of appointment and she should have claimed an issue before the trial Court so that both parties could have led evidence accordingly, pro and contra. This, the appellant failed to do. At any rate, the materials on record support the findings recorded while dismissing the suit. No question of law arises for determination in second appeal since the decisions are based on appreciation of facts.

No other point is pressed.

Finding no merit in this appeal, I would dismiss it.

(RAJIV NARAIN RAINA)
JUDGE

14.03.2017

manju

Whether speaking/reasoned *Yes*

Whether reportable *No*