

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.6966 of 2016(O&M)

Date of Decision: 16.05.2017

Praveen

... Appellant

Versus

The State of Punjab & ors.

... Respondents

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

Present: None.

RAJIV NARAIN RAINA, J.(Oral)

No one appears for the appellant. Perused the paper-book on the dais for final disposal.

I have no reason to disagree with the work of the trial Court in dismissing the suit filed by Parveen, daughter of Santosh Rani plaintiff No.1. The suit was filed by the daughter and son of Santosh Rani the deceased Government servant who died in harness while serving as a Clerk in PWD(B&R) at Hoshiarpur. Death fell on July 9, 1992. The claim was for grant of family pension, provident fund, gratuity and other post death benefits to the benefit of the plaintiffs. After the death of Santosh Rani, her husband Raj Mal- defendant No.5 remarried and fathered children from his second wife. Raj Mal was given compassionate appointment in place of his first wife Santosh Rani in the department. In these circumstances, the plaintiffs brought suit for declaration and mandatory injunction for claiming family pension and other retiral dues. The trial Court framed the following issues :-

- 1) Whether plaintiffs are entitled to the declaration as prayed for?OPP
- 2) Whether plaintiffs are entitled to mandatory injunction as prayed for? OPP

- 3) Whether suit is bad for non-joinder of necessary parties? OPD
- 4) Whether plaintiffs have no cause of action to file the suit? OPD
- 5) Relief.”

Issues No.1 & 2 were taken up together for decision. The Court found that the amounts coming from service rendered by late Santosh Rani had already been released in favour of her husband-defendant No.5. It is not established on evidence whether defendant No.5 was in receipt of family pension. Once compassionate appointment was offered and taken by the husband, the question of family pension did not arise since he was in receipt of salary. For these reasons, the suit was dismissed by the learned Additional Civil Judge (Senior Division), Hoshiarpur, by judgment and decree dated April 17, 2013. Aggrieved by the said judgment, an appeal was carried to the Court of the Additional District Judge Hoshiarpur, who concurred with the findings and view expressed by the trial Court affirming it by the judgment and decree dated July 25, 2016 against which the present second appeal has been filed. Parties cannot dispute with the State of Punjab except inter se which challenge has failed in the courts below.

I have no reason to differ. No substantial question of law arises in this appeal. The findings of fact are not assailable. The appeal is accordingly dismissed being devoid of merit.

16.05.2017
monika

(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>