

RSA No.5183 of 2012 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA No.5183 of 2012 (O&M)
Date of decision: 12.01.2018

Sarabjeeet Singh

.....Appellant

versus

Punjabi University

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Damanjeet, Advocate,
for the appellant.

Mr. Vishal Khatri, Advocate,
for the respondent.

RAMENDRA JAIN, J. (ORAL)

CM-14496-C of 2012

Prayer in the instant application under Section 5 of the Limitation Act has been made for condonation of 193 days in filing the accompanying appeal.

Reply to the application, filed in Court today is taken on record.

Heard.

For the reasons mentioned in the application, same is allowed.

Consequently, delay of 193 days in filing the accompanying is condoned.

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Unsuccessful plaintiff has assailed the judgment and decree dated 14.12.2011 of the District Judge, Bathinda, affirming the judgment and decree dated 05.03.2011 of the trial Court, dismissing his suit for

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declaration and permanent injunction.

Put pithily, on 12.09.2007 appellant-plaintiff took admission in B.A. LL.B. course with the respondent-University and deposited ₹ 52,135/-, but afterwards did not attend the course and sought refund of the aforesaid amount. When the respondent-University did not refund the whole amount, rather refunded only ₹ 20,000/- as per its calander and prospectus, the appellant-plaintiff got served a legal notice dated 28.09.2007, which was duly replied by the respondent-University specifically denying any further refund to him.

Consequently, appellant-plaintiff filed a suit for declaration and mandatory injunction to direct the respondent-University to refund the balance amount of ₹ 32,135/-.

Upon notice, respondent-University contested the suit. In its written statement it took a categorical stand that the appellant-plaintiff had applied for the refund of fee at a very belated stage. Therefore, the seat which was kept reserved for him remained vacant throughout the session. According to the University rules, fee deposited by appellant-plaintiff could not be refunded as he had applied for the same after last date of admission and his seat remained vacant.

The trial Court, after framing necessary issues and recording evidence to the satisfaction of both the sides, dismissed the suit vide judgment and decree dated 05.03.2011 with costs directing the appellant-plaintiff to make payment of *ad valorem* court fee on the relief claimed i.e. ₹ 52,135/- within a period of one month and on his failure to do so the same was directed to be recovered as a land revenue by the Collector.

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Being aggrieved, appellant preferred an appeal, but remained unsuccessful as the same too was dismissed vide judgment and decree dated 14.12.2011.

Learned counsel for the appellant, relying upon the judgment of this Court in ***Inderpreet Singh v. Shri Guru Goind Singh College and another***, 2008(1) SLR 108, urged that both the Courts below have erred in not accepting the prayer of the appellant for refund of the balance fee by the respondent-University.

On the other hand, learned counsel for the respondent, strongly refuting the above submission and relying upon the judgment of this Court in ***R.S. Garg v. Union of India and others***, 2015(3) PLR 630, contended that the amount deposited towards tuition fee by the appellant-plaintiff was not liable to be refunded as he had applied for the same after last date of admission and, thus, on account of his above lapse, the seat, which was kept reserved for him remained unfilled.

Having given anxious consideration to the submissions made by both the sides, I find the present appeal completely devoid of any merit for the reasons to follow.

In the case of ***Inderpreet Singh*** (supra), relied upon by learned counsel for the appellant, it has been held that for seeking refund of fee by a student, it is necessary for him to prove that no prejudice is caused to the University, in case, fee deposited by him is returned to him, but no such evidence was led by the appellant-plaintiff. Contrary to it, perusal of the impugned judgment of the First Appellate Court shows that appellant-plaintiff applied for refund of fee vide application Ex.D4 after start of the

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session and after the date on which the admissions stood closed. The respondent-University claims that no fresh admission could be made against the seat of the appellant-plaintiff as he applied belatedly for refund of fee. This stand of the University could not be controverted by the appellant-plaintiff during the course of evidence before the trial Court. Learned First Appellate Court has categorically observed that seat which became vacant on account of non-joining of the appellant-plaintiff, remained vacant throughout the year after moving of his application for refund of fee. More-so, according to the rules Ex.D2 of the respondent-University, fee deposited by the appellant-plaintiff was not refundable. Admittedly, a sum of ₹ 20,000/- vide cheque No.054093 dated 13.03.2009 was refunded to the appellant-plaintiff out of the total amount of ₹ 52135/- deposited by him. Therefore, it is evident that prejudice was caused to the respondent-University on non-joining of the appellant-plaintiff and asking for refund of amount paid by him to it after final date of admission as seat kept reserved for him remained vacant throughout the session.

In view of the discussion above, the authority in the case of ***Inderpreet Singh*** (supra), relied upon by the appellant-plaintiff instead of helping him goes against him.

There are concurrent findings against the appellant of both the Courts below. I have gone through the impugned judgments of both the Courts below and find no illegality or perversity in the same. Rather they are well-reasoned. More-so, no question of law muchless substantial question of law arises for consideration in this appeal.

Resultantly, this appeal being devoid of any merit, is hereby

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dismissed with costs of ₹ 10,000/- to be deposited with the District Legal Services Authority, Bathinda. This exemplary cost has been imposed upon the appellant-plaintiff for wasting precious time and energy of this Court which could have been utilised in hearing and deciding some genuine litigation, keeping in view that for a very paltry amount the appellant after remaining unsuccessful in two Courts has knocked the door of this Court by way of this Second Appeal knowing well that no question of law muchless substantial worth arguing arises.

Copy of this order be sent to the Member Secretary, District Legal Services Authority, Bathinda, for recovery of aforesaid costs from the appellant.

January 12, 2018

R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.