

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA-1507-2014 (O&M)

Date of decision: 07.05.2018

Chet Singh

..... Appellant

Versus

The State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. PS Dhaliwal, Advocate for the appellant.

Ms. Gulnoor Ghuman, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

1. Through this Regular Second Appeal, the plaintiff-appellant has laid challenge to the judgments and decrees dated 07.01.2013 and 12.11.2013, of both the Courts below.

2. Put pithily, the plaintiff-appellant as an ex-serviceman obtained a dependent certificate from respondent No. 2-Deputy Director, Sainik Welfare Office, Sangrur, on 27.10.1993, for use of the same for appointment of his wife-Ranjit Kaur in a Government Job. While issuing the dependent certificate, entry to this effect was made in his discharge book. Wife of the appellant-plaintiff, namely; Ranjit Kaur, applied for the post of JBT Teacher in March, 1993 and was interviewed on 20.05.1993 (wrongly mentioned as March, 1983 and 20.05.1983 in the judgment of Ist Appellate Court), vide Roll No. S-743 and was given appointment as such.

3. Thereafter, the appellant-plaintiff, after giving registered notice under Section 80 CPC to the respondents, filed a suit for declaration to the

effect that the entry regarding issuance of dependent certificate to him on 27.10.1993 made by respondent No. 2 in his discharge book was liable to be cancelled because, his wife Ranjit Kaur was not provided employment on the basis of said dependent certificate, rather was appointed independently, without any use of the same. Therefore, after cancelling the dependent certificate for his wife, he may be issued another dependent certificate in the name of his daughter.

4. The learned trial Court after holding trial, dismissed his suit vide judgment and decree dated 07.01.2013.

5. Being aggrieved, the plaintiff-appellant approached the Ist Appellate Court, but remained un-successful as his appeal too was dismissed vide judgment and decree dated 12.11.2003.

6. Learned counsel for the appellant-plaintiff contends that the dependent certificate issued by respondent No. 2 to him on 27.10.1993, was never used. Therefore, the same was returned by the appellant-plaintiff to respondent No. 2 for its cancellation and to issue a fresh one in favour of his daughter by cancelling the endorsement in his discharge book and make fresh entry to this effect. Document Ex. D-1 tendered by the respondents, allegedly, issued by District Education Officer, Sangrur has wrongly been relied upon by both the Courts below, being not legally proved in accordance with strict rules of evidence, while dismissing the suit in illegal and arbitrary manner. The dependent certificate issued in favour of wife of the appellant could not be used for the reason that the date of interview of his wife was earlier to the date of issuance of dependent certificate and there was a specific clause in the interview letter that the dependent certificate of ex-serviceman issued after interview would not be entertained.

7. On the other hand, learned State counsel has strongly refuted the above submission of learned counsel for the appellant, contending that there is a categorical finding of both the Courts below that wife of the appellant, namely; Ranjit Kaur was given appointment on the basis of dependent certificate and not in general category. The appellant-plaintiff by concealing this fact, tried to mislead both the Courts below and also the State Government. Filing of instant suit by the appellant after 10 years of his alleged grievance, in itself speaks volumes about the manner in which the appellant-plaintiff wanted to take undue advantage of his status as an ex-serviceman.

8. Having given considerable thought to the rival submissions made by learned counsel for both the parties, I find the instant appeal completely devoid of merit for the reasons to follow:

9. Ex. D-1, issued by the District Education Officer, Sangrur, certifying therein that Ranjit Kaur was given appointment on the basis of dependent certificate clinches the entire controversy and has rightly been considered by both the Courts below, even if, strict rules of evidence were not followed, in view of the fact that it has come from the proper custody issued by a Gazetted Officer. In case, the appellant-plaintiff had any grouse against the said certificate Ex. D-1 exhibited without objection, it was for him to rebut the same by leading cogent and convincing evidence, but he did not make any effort, which requires to draw an adverse inference against him that he was well aware of the fact that document Ex. D-1 was a genuine letter issued by its signatory, disclosing true fact that his wife-Ranjit Kaur, had been given appointment on the basis of dependent certificate. It is needless to mention here that an exhibited document is legally worth

consideration.

10. More so, had the said certificate been fake or not genuine, in that eventuality, the appellant could move application under Section 340 Cr.P.C. to prosecute State. Having not done so, also proves beyond any shadow of doubt that letter Ex. D-1 was a genuine certificate. Raising grouse by way of instant suit after 10 years in itself is sufficient to draw an adverse inference that the appellant-plaintiff wanted to blackmail the State Government or its instrumentalities, taking advantage of his status of ex-serviceman.

11. It is height of the things that an ex-serviceman like the appellant-plaintiff has tried to commit fraud with the State Government, under the garb of his status of ex-servicemen with the aid of Courts, which cannot be expected from such person. Concealing true facts from the Court by the appellant-plaintiff in a way put a question mark on his character as an ex-serviceman.

12. I have carefully gone through the judgments of both the Courts below and find no illegality or perversity in the same. The same are well reasoned and based on correct appreciation of evidence brought on record.

13. Dismissed.

May 07, 2018

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No