

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

RSA No.5771 of 2016 (O&M)

Date of decision:15.05.2018

Rajwinder Kaur

... Appellant

Vs.

Harjit Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. S.K.Sharma, Advocate
for the appellant.**

AMIT RAWAL J.

The present appeal is at the instance of appellant-defendant No.4, whose appointment as Anganwari Worker in the suit filed by respondent No.1/plaintiff, has been declared to be null and void.

Succinctly the facts which emanates from the pleadings of the parties reveal that plaintiff/respondent No.1 instituted the suit on 18.8.2012 averring therein that on 23.10.2009, defendant No.1/State of Punjab, Department of Social Security invited applications for filling up the posts of Anganwari Worker. There were three candidates including the plaintiff. Others were appellant/defendant No.4-Rajwinder Kaur and Paramjit Kaur wife of Pargat Singh. Rajwinder Kaur was a matriculate and belonged to Kamboj Caste, whereas, Paramjit Kaur was also matriculate and belonged to Jat Community. The interview for filling up the aforementioned post was conducted in the end of February, 2009. In the year 2006, defendant No.4-

Rajwinder Kaur was married with Dilbagh Singh in the village Attalan. Though her ration card and voter card prior to marriage were of village Seona Kath and as per the Rules prevailing to the terms and conditions of appointment, a candidate has to be of same very village, therefore, her candidature was challenged.

The suit was contested by defendant No.4. It was submitted that she was 10+1 pass and had constructed house alongwith her husband in village Seona Kath and living therein. Prior to marriage, she was resident of village Seona Kath. During the interregnum, she was married with Dilbagh Singh at village Attalan.

The trial Court on the basis of aforementioned pleadings framed as many as seven issues including the issue of Relief. The respondent No.1/plaintiff examined herself as PW1 and Punjab Singh as PW2, whereas, defendant No.4 examined herself as DW1, Arvinder Kaur, Ex-CDPO Patran as DW2 and Harbans Singh as DW3, Director of Dashmesh Khalsa Sr. Secondary School, Badshahpur.

The trial Court on the basis of preponderance of evidence decreed the suit and appeal laid by appellant-defendant No.4 before the Lower Appellate Court was dismissed.

Mr. S.K.Sharma, learned counsel appearing on behalf of the appellant/defendant No.4 submitted that judgments and decrees of both the Courts below are not sustainable in the eyes of law as the same are based on the surmises and conjectures, for, the inquiry conducted by the District Programmer Officer, Samana was sent to Director Social Security and

Women and Children Development Department Punjab, Chandigarh, vide letter dated 08.05.2010, which fully proved on record that appellant/defendant No.4 was the best and suitable candidate for being appointed as Anganwari Worker. The plaintiff participated in the selection process and secured lesser marks, therefore, could not challenge the appointment of defendant No.4. The appellant/defendant No.4 was permanent resident of village Seona Kath and was appointed as Anganwari Worker in village Seona Kath by respondents No.2 to 4 after following proper procedure and thorough inquiry. However, plaintiff-Harjit Kaur challenged the aforementioned appointment without any cause of action, therefore, there is gross illegality and perversity in the impugned judgments and decrees.

I have heard the learned counsel for the appellant/defendant No.4, appraised the impugned judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Mr. Sharma, for, appellant/defendant No.4-Rajwinder Kaur when appeared as DW4 admitted in cross-examination that she got married with Dilbagh Singh in village Attalan on 07.02.2007 and her voter and ration card were prepared at village Seona Kath in the year 2007, i.e., before her marriage and after her marriage, she was staying at village Attalan. No documentary evidence has been brought on record to show that post marriage, she was living at village Seona Kath. None of the witnesses, who made statement on the basis of report to support the inquiry report did not appear, therefore, the inquiry report remained un-proved. The certificate of residence and caste of

Rajwinder Kaur, Ex.DW1/1 showed her resident of village Attalan. The voter card Ex.DW1/3 was of the year 2003 and similarly school leaving certificate Ex.DW1/4. No document post marriage had been placed on record to show that Rajwinder Kaur after marriage was living at village Seona Kath, for, it was the requirement of law as per the terms and conditions of the advertisement for filling up the post of Anganwari Worker, a candidate has to be resident of the same very village.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees of the Courts below which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 15, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No