

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

103

Regular Second Appeal No.5500 of 2018 (O&M)
Date of Decision: December 14th, 2018

Pushpa Devi

...Appellant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ajay Pal Singh Rehan, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.15185-C of 2018

Prayer in this application is for condonation of delay of 586 days in refiling the appeal.

The reason assigned for the inordinate delay in the matter is because of the shifting of the house of the counsel as also the change of the office Clerk because of which the file was misplaced after objections having been raised by the Registry, which were to be removed. It is subsequently that the file was found and after removal of the objections, the appeal was refiled. The application is supported by the affidavit of the present Clerk of the counsel.

In view of the above and for the reasons stated in the application, the same is allowed.

Delay of 586 days in refiling the appeal stands condoned.

CM No.15184-C of 2018

Prayer in this application is for condonation of delay of 17 days in filing the appeal.

For the reasons mentioned in the application, which is duly supported by the affidavit of the applicant-appellant, the same is allowed.

Delay of 17 days in filing the appeal stands condoned.

CM No.15186-C of 2018

Prayer in this application is for placing on record document Annexure P-1 and for exemption from filing the certified copies of Annexure P-1, judgment and decree dated 03.07.2015 and grounds of appeal.

Application is allowed subject to just exceptions.

Annexure P-1 is taken on record.

Exemption, as prayed for, is granted.

CM No.15187-C of 2018

Prayer in this application is for leading additional evidence by placing on record the policy dated 23.01.2001 (Annexure P-1) for regularisation of work charge/daily wages employees issued by the Department of Personnel, Punjab Government.

It has been stated that as per the policy of regularisation of the work charge/daily wages employees dated 23.01.2001, the services of the husband of the applicant-appellant would have to be deemed to have been regularised entitling him to the claim, as has been made in the civil suit and, therefore, the present application be allowed.

Having considered the application and keeping in view the fact that the civil suit was filed on 15.10.2013, there was no reason as to why said policy was not made the basis for claiming the benefit as in the civil suit. There is no pleading to the effect as has been sought to be projected in the application. The applicant had not been diligent enough to plead and lead the evidence before the Courts below and at this belated stage, the same, therefore, cannot be allowed.

The present application, therefore, stands dismissed.

RSA No.5500 of 2018

Challenge in this appeal is to the judgment and decree dated 03.07.2015 passed by the Civil Judge (Junior Division), Gurdaspur, whereby the suit for declaration to the effect that the appellant-plaintiff is entitled for pensionary benefits of her deceased husband on being declared to be regularised, has been dismissed, appeal against which preferred by the appellant stands dismissed by the learned District Judge, Gurdaspur, vide judgment dated 24.08.2016.

2. It is the contention of learned counsel for the appellant that the husband of the appellant namely Buta Ram son of Babu Ram was appointed as a part-time Sweeper at Government High School, Ferozepur Kalan, on 02.04.1991. Husband of the appellant had preferred CWP No.3519 of 1995 in this Court claiming regularisation of his services, wherein directions were issued to the State authorities to consider the claim of the husband of the appellant with regard to regularisation of the services. In pursuance to the said order, the claim of the appellant was considered and rejected vide letter dated 20.10.1995 Exhibit D-1. Thereafter the claim of the husband of the appellant was reconsidered by a Screening Committee constituted by the Director Public Instructions (Schools), Punjab, under the Policy dated 04.03.1999, where again the claim of the husband of the appellant was rejected for the reason that he did not fulfill the requisite conditions as per the circulars issued by the authorities. It is asserted that thereafter a new policy dated 23.01.2001 was framed by the Government of Punjab and on the basis of the said policy, the services of the husband of the appellant namely Buta Ram were required to be regularised, which benefit

has wrongly been denied to him. Accordingly a prayer is made for setting aside the impugned judgments and decree passed by the Courts below.

3. I have considered the submissions made by learned counsel for the appellant and with his assistance, have gone through the judgments passed by the Courts below.

4. Perusal of the judgments passed by the Courts below would show that the claim of the appellant is not based upon the Policy dated 23.01.2001. That apart, the orders rejecting the claim of the husband of the appellant with regard to his entitlement for regularisation, especially in pursuance to the direction issued by this Court in CWP No.3519 of 1995 as also subsequently Committee constituted by the Director Public Instructions (Schools), Punjab, having not been assailed, leads to a situation where the claim, as has been made by the appellant, cannot be accepted. The Courts below have rightly proceeded to reject the claim of the appellant.

5. Finding no illegality in the judgments passed by the Courts below, the present appeal being devoid of merits, stands dismissed.

6. In the light of the dismissal of the appeal, the application for stay i.e. CM No.15188-C of 2018, stands disposed of as infructuous.

December 14th, 2018
Puneet

AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No