

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No.120 of 2012

- Smt. Neelam Kasar, aged 54 years, W/o Shri Nand Kishore Kasar, Sahayak Grade-III, Municipal Corporation, Durg (C.G.)

----- Appellant

Versus

- Municipal Corporation, Durg through the Commissioner, Municipal Corporation, Durg, Tahsil and District Durg (C.G.)

----- Respondent

For Appellant

Mr. V. K. Sharma, Advocate

Hon'ble Justice Shri Sanjay K. Agrawal

Order On Board

25/06/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/plaintiff.
2. By the impugned judgment and decree, the First Appellate Court has dismissed the appeal preferred by the appellant/plaintiff vide judgment and decree dated 06.01.2012 passed by the learned 5th Additional District Judge, Durg (C.G.) in Civil Appeal

No.07A/2011 affirming the judgment and decree of the Trial Court dated 31.10.2008 passed by the learned 11th Civil Judge Class-II, Durg (C.G.) in Civil Suit No.15A/2010, whereby the learned Trial Court dismissed the suit preferred by the appellant/plaintiff.

3. Mr. Sharma, learned counsel for the appellant/plaintiff, would submit that both the Courts below have legally erred in holding that the plaintiff is not entitled for the benefit of one advance increment on account of undergoing sterilization operation as per Family Welfare Scheme of the Government. As such, the appeal involves substantial question of law for determination and deserves to be admitted.
4. I have heard learned counsel for the appellant, considered his submissions made herein-above and also went through the records with utmost circumspection.
5. The plaintiff filed a suit that he is entitled for one advance increment on

account of undergoing sterilization operation for family planning by virtue of the circular of the Government, which the Trial Court and the First Appellate Court both have dismissed holding that it is not applicable to the daily wager employee, as the petitioner was appointed as the daily wager employee w.e.f. 02.02.1987, whereas her services were regularized w.e.f. 26.04.1997, therefore, the benefit of the said increment cannot be extended to the daily wager, as admittedly the petitioner underwent sterilization operation on 13.04.1989 before her regularization on the post of Clerk/LDC on 26.04.1997.

6. The finding recorded by both the Courts below that the appellant is not entitled for one advance increment on account of undergoing sterilization operation for family planning being daily wager on the date of operation is a finding of fact based on the material available on record, which is neither perverse nor contrary to law.
7. I do not find any substantial question of

law for determination in this second appeal.

It deserves to be and is hereby dismissed in
limine without notice to the other side. No
order as to cost (s).

Sd/-
Sanjay K. Agrawal
Judge

Nirala