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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-6402-C-2022 in/and
RSA-785-2022 (O&M)
Date of Decision: 21.10.2022

SANDEEP KUMAR

.. Appellant

Vs.

M/S ACME INFOSYSTEM PROFESSIONALS AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Divay Sarup, Advocate for the appellant.

...

Manoj Bajaj, J. (Oral)

CM-6402-C-2022

The instant application is for pre-poning the date of hearing of the main petition to an early date.

Heard.

For the reasons mentioned in the application, the same is allowed and the date of hearing is pre-poned to today.

RSA-785-2022 (O&M)

Appellant (plaintiff) has filed this regular second appeal against the judgment and decree dated 27.10.2021 passed in CA-78-2019 by Addl. District Judge, SAS Nagar (Mohali), whereby it has upheld the judgment and decree dated 05.01.2019 passed in Civil Suit No.297 of 18.01.2018 by Civil Judge (Jr. Divn.), SAS Nagar, partly decreeing the suit of the plaintiff for recovery of Rs.28,006/- instead of Rs.55,940/- along with interest.

Learned counsel has argued that the suit for recovery of salary

for five months filed by plaintiff (appellant) was partly decreed vide *ex*

parte judgement and decree dated 05.01.2019, whereby against a total claim of Rs.55,940/-, plaintiff was held entitled to recover Rs.28,006/- along with interest @ 6% from November, 2017 till actual realization. He submits that against this judgment and decree dated 05.01.2019, an appeal was filed before the Addl. District Judge, Mohali, however, the same was also dismissed and while declining the plaintiff's claim, both the Courts have primarily relied upon the letter of contractual appointment dated 05.09.2015 (Ex.P-1). He submits that no doubt, as per this letter of appointment, the salary of the petitioner is shown to be Rs.5,000/- p.m. and to this extent, the Courts have decreed the suit, but the other material on record would also establish that later, his salary was raised to Rs.10,000/- p.m. Learned counsel in this regard, refers to three cheques (Mark A to C) amounting to Rs.10,000/- each issued by the defendants in favour of the plaintiff.

Learned counsel submits that the impugned judgment and decree passed by the Appellate Court warrants interference by this Court, as the suit deserves to be decreed as prayed for.

After hearing the learned counsel and considering the evidence on record, this Court finds that the total length of service of the plaintiff with defendants is approximately 25 months and a perusal of Ex.P-1 makes it clear that the benefit of increment etc., was made dependant upon the financial result of the company as well as the performance of the employee. Merely because, the defendants had issued three cheques of Rs.10,000/- each in his favour, that alone would not be sufficient to infer that indeed his salary was enhanced from Rs.5,000/- p.m. to Rs.10,000/- p.m., therefore, this Court is not inclined to accept the sole argument raised by the appellant, in the absence of any cogent evidence, showing his salary as Rs.10,000/-

p.m.

Further, a perusal of the impugned judgment and decree dated 27.10.2021 passed by the Addl. District Judge, SAS Nagar shows that, it has carefully examined the evidence on record and has rightly affirmed the findings returned by the trial Court. The conclusion drawn by both the Courts is based upon proper appreciation of evidence on record, thus this Court does not find any merit in this appeal, much less involvement of any question of law.

Dismissed.

21.10.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No