

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 923 of 2019****Date of Decision: 21.08.2023**

Birpal Singh

... Appellant(s)

Versus

Haryana State Warehousing Corporation and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Gaurav Gupta, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The correctness of the concurrent findings of facts, arrived at by both the Courts below, is assailed by the plaintiff in this second appeal.

3. The plaintiff has filed a suit for the grant of decree of declaration with the consequential relief of mandatory injunction claiming that he is entitled to the overtime wages. The suit was filed after he superannuated on 31.01.2015. He claimed the overtime wages for the period from July, 2008 to March, 2011, whereas the suit was filed on 01.04.2015.

The First Appellate Court has held that at that time, the suit was filed

beyond the prescribed time. Moreover, the plaintiff has failed to prove that

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that he has worked beyond the prescribed time. It is the stand of the respondents that the appellant was assigned the duty from 01.00 A.M. to 09.00 A.M. with one day off per week. Thus, both the Courts below have, on the appreciation of the evidence, held that the plaintiff has miserably failed to prove his case.

4. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

August 21, 2023

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No