

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(121)

RSA-1023-2023 (O&M)
Date of Decision : 08.05.2023

Surinderjit Kaur @ Chhindo (since deceased) through her Lrs. and
others

...Appellants

Versus

Punjab State through Collector, Gurdaspur and others

...Respondents

(122)

CM-5000-C-2023 in/and
RSA-1355-2023 (O&M)

Surinderjit Kaur @ Chhindo (since deceased) through her Lrs. and
others

...Appellants

Versus

State of Punjab through Collector, Gurdaspur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajeshwar Singh Thakur, Advocate for the appellants.

Mr. Gurpreet Singh, Additional Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM-5000-C-2023 in RSA-1355-2023

Present application has been filed seeking condonation of delay
of 22 days in re-filing the appeal.

Keeping in view the averments made in the application, which
are duly supported by an affidavit, the same is allowed and delay of 22 days
in re-filing the appeal is condoned.

CM-3953-C-2023 and CM-5002-C-2023 in RSA-1023-2023 and RSA-1355-2023

Present applications have been filed for impleading legal representatives of appellant No. 1-Surinderjit Kaur @ Chhindo, who unfortunately died on 24.06.2021, during the pendency of the appeal.

It has been mentioned in the applications that legal representatives of appellant No. 1-Surinderjit Kaur @ Chhindo are already on record.

In view of the above, the applications are allowed.

RSA-1023-2023 and RSA-1355-2023

1. These two regular second appeals, which arise out of the same judgments and decrees of the courts below, are being decided by this common order.
2. Certain facts may be noticed for the correct appreciation of the issue in hand.
3. Jaswinder Kaur widow of Manjitpal Singh filed a civil suit claiming the service benefits in respect of the service rendered by her late husband, Manjitpal Singh, after he unfortunately died while in service. The similar claim was also raised by the mother as well as brother and sisters of Manjitpal Singh, which suits were clubbed and were decided together. Keeping in view the service rules, the suit filed by Jaswinder Kaur was decreed by the trial court on 02.08.2017 and the suit filed by the appellants herein was dismissed. The widow of Manjitpal Singh was held entitled for the grant of service benefits including the family pension, whereas the claim of the mother, brother and sisters of Manjitpal Singh was rejected on the

ground that the same is not made out keeping in view the rules governing the service on the said aspect. The judgment and decree of the trial court dated 02.08.2017 was impugned before the lower appellate court by filing two separate appeals, which appeals came to be dismissed vide judgment and decree dated 17.12.2022 and the judgment of the trial court allowing the suit filed by Jaswinder Kaur was upheld, hence, the present regular second appeal.

4. Learned counsel for the appellant argues that as respondent-Jaswinder Kaur had left the matrimonial house after 10 days of her marriage and she never came back, she cannot be treated as a wife of Manjitpal Singh for getting the service benefits. Learned counsel for the appellant submits that even a divorce petition filed by Manjitpal Singh is pending for consideration. Learned counsel further submits that keeping in view the dispute between the parties, an FIR was also registered by Jaswinder Kaur against Manjitpal Singh, hence, grant of service benefits to Jaswinder Kaur in respect of the service rendered by Manjitpal Singh will be putting premium on her acts.

5. On being asked, whether there was a valid marriage between Manjitpal Singh and Jaswinder Kaur, learned counsel very fairly conceded the said fact in affirmative. Further, learned counsel was asked whether the said marriage was dissolved at any stage by the competent court of law, learned counsel submits that though divorce petition was filed but before the same reached at any conclusion, Manjitpal Singh, unfortunately died meaning thereby that the marriage between Manjitpal Singh and Jaswinder

Kaur was existing on the day when Manjitpal Singh died unfortunately.

6. That being so, Jaswinder Kaur is concededly a legally wedded wife of Manjitpal Singh. Once, it is a conceded position that Jaswinder Kaur was a legally wedded wife of Manjitpal Singh, merely the facts that she had stayed at her matrimonial home for just 10 days or there was litigation going on between the parties, cannot be taken into account to hold that a legally wedded wife can be deprived of her right to claim the service benefits in case the same is admissible under the rules governing the service.

7. Learned counsel for the appellant conceded the fact that the first claim for the grant of service benefit in respect of an employee is of the spouse of the employee. In the absence of the spouse, the next claimants are the children of the employee and the parents of the said employee becomes eligible for the said benefits only after spouse and children and that too in case, they were dependent upon the said employee.

8. In the present case, the mother and brothers of Manjitpal Singh have not been able to prove that they were dependent in any manner on Manjitpal Singh. Even the said situation will not arise in the present case, as the wife was very much present and entitled to claim the service benefits being the legally wedded wife. Nothing has been brought to this Court that the rules oust Jaswinder Kaur from claiming the service benefits. In the absence of any such rule being pointed out, no interference is called for in the present appeals keeping in view the concurrent findings by the courts below.

9. No other point was raised.

10. Keeping in view the above, no ground is made out for any

interference in the present regular second appeals.

11. Dismissed.

CM-3952-C-2023 in RSA-1023-2023 and CM-5001-C-2023 in RSA-1355-2023

As both the appeals are dismissed, the present applications also stand dismissed.

May 08, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No