

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA-1438-2019 (O&M)
Date of Decision :12.01.2023

Director Secondary Education, Panchkula, Haryana
and others

...Appellants

Versus

Krishna Devi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravi Dutt Sharma, DAG, Haryana
for the appellants-State.

Mr. Saurabh Garg, Advocate for respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

Present regular second appeal has been filed by the appellant-State challenging the order dated 31.05.2018 passed by the trial Court allowing the suit filed by the respondent-plaintiff as well as judgment dated 16.08.2018 passed by the lower Appellate Court upholding the said view and dismissing appeal filed by the appellant-State.

The present regular second appeal came up for hearing before the Coordinate Bench of this Court on 14.03.2019 on which date, following order was passed:-

“CM No.3716-C of 2019

Prayer in this application is for condonation of delay of 100 days in filing the appeal.

For the reasons mentioned in the application which is duly supported by the affidavit of the Block Education Officer, Rajound, Kaithal, the present application is allowed.

Delay of 100 days in filing the appeal stands condoned.

RSA No.1438 of 2019

I have considered the submissions made by learned counsel for the appellants and with his assistance, have gone through the records of the case but do not find any fault as far as the claim of the respondents for the grant of pensionary benefits is concerned. The judgments which have been passed by the Courts below being based upon proper appreciation of the pleadings and the evidence as also the settled proposition of law, do not call for any interference.

At this stage, learned counsel for the appellants has submitted that in the light of the Full Bench judgment of this Court in Saroj Kumari Versus State of Punjab and others 1998 (3) SCT 664, respondents would be entitled to the grant of arrears limited to the extent of three years and two months prior to the date of filing of the civil suit.

Notice of motion to this limited extent for 05.09.2019.

Direction is issued to the appellants to release the retiral benefits as per the judgments and decree passed by the Courts below within a period of two months from today to the respondents except for the period which is beyond three years, two months prior to the date of filing of the civil suit.

To be shown in the urgent list.”

A bare perusal of the above order shows that judgments of the Courts below were upheld and notice was only issued qua the entitlement of the respondent-plaintiff for the grant of arrears to the extent of three years and two months prior to the date of filing of the civil suit.

Learned counsel for the respondent-plaintiff raises no objection qua the grant of the said relief to the appellants and to modify the judgments of the Courts below accordingly to the extent that only arrears to the extent of three years and two months prior to the filing of the civil suit be extended to the respondent/plaintiff.

Keeping in view the order passed in the present regular second appeal dated 14.03.2019, decree of the trial Court is modified only to the extent that respondent-plaintiff will be entitled for arrear for a period of three years and two months prior to the filing of the civil suit, which was filed on 25.03.2015.

At this stage, learned counsel for the appellant-State submits that order passed by the Coordinate Bench dated 14.03.2019 is contrary to the settled principle of law.

The said argument cannot be appreciated and accepted by this Court at this stage and in case respondent-department was aggrieved against the said order dated 14.03.2019 by which, the regular second appeal filed was dismissed, they could have availed their remedy available with them under the law. But learned counsel for the appellants conceded that the said order was never challenged at any stage, hence, as per the order dated 14.03.2019, the regular second appeal was dismissed qua merits of the case.

CM-3717-C-2019

As the RSA No.1438-2019 has been decided, present application has been rendered infructuous and is disposed of as such.

January 12, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No