

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(252)

CM-2377-C-2020 in/and
RSA-1874-1999

Date of Decision : February 27, 2023

Pardeep Chopra

.. Appellant

Versus

The Punjab State Cooperative Supply and Marketing Federation
Limited and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. N.C. Kinra, Advocate, for the applicant-appellant.

Mr. Parminder Singh-I, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-2377-C-2020

Present application has been filed for hearing of the main RSA,
which is pending consideration for the last 23 years, at an early actual date.

Notice of the application has already been issued.

Mr. Parminder Singh-I, Advocate puts in appearance on behalf
of the non-applicants/respondents and raises no objection for the grant of
prayer as raised in the present application.

Keeping in view the fact that the present RSA relates to the
year 1999, the application is allowed and keeping in view the joint request
of learned counsel for the parties, the main RSA is taken up for hearing
today itself.

RSA-1874-1999

Present Regular Second Appeal has been filed by the appellant-plaintiff challenging the judgment and decree of the trial Court dated 31.01.1996 by which, it has been held that the suit is time barred as well as the judgment of the lower Appellate Court dated 02.09.1998 by which, the appeal filed against the judgment and decree of the trial Court dated 31.01.1996, has also been dismissed.

Certain facts needs to be mentioned herein for appreciation of facts in the correct perspective.

The challenge in the civil suit was to the order dated 05.05.1982 by which, the appellant-plaintiff was dismissed from service. The said civil suit was filed in January 1988 i.e. after a period of approximately more than five years and eight months. While filing the written statement, the respondents had taken an objection qua the maintainability of the said suit with regard to the challenge to the order dated 05.05.1982 and keeping in view the evidence which came on record, the said suit filed by the appellant-plaintiff was held not to be maintainable being time barred qua the challenge to the order of dismissal dated 05.05.1982.

The appeal preferred by the appellant-plaintiff before the lower Appellate Court was also dismissed vide order dated 02.09.1998 upholding the findings recorded by the trial Court that the suit was time barred. Hence, the present Regular Second Appeal.

Learned counsel for the appellant-plaintiff submits that both the Courts below have not appreciated the facts of the present case in a manner

required for. Learned counsel for the appellant further submits that after the order of dismissal dated 05.05.1982 was passed, the appellant-plaintiff had preferred an appeal before the Chairman on 12.05.1982 and as the appeal was not decided and was pending consideration by the concerned authorities, the suit filed by the appellant is to be treated within limitation.

On being asked, as to point out the evidence, which has come on record to prove that the appeal was preferred by the appellant against the order dated 05.05.1982 dismissing him from service, learned counsel for the appellant has not been able to show either the said appeal alleged to have been filed or the receipt of the same at the hands of the respondents to ensure that on the date when the appellant filed a suit, his appeal against the order of termination dated 05.05.1982 was pending consideration.

In the absence of any such evidence on record, the findings of the Courts below that no appeal preferred by the appellant, alleged to be pending on the date when the civil suit was filed, cannot be treated as perverse so as to accept the present Regular Second Appeal.

Learned counsel for the appellant submits that the appellant had submitted the postal receipts to show that the appeal was preferred before the concerned authorities.

Though, some postal receipts have been brought on record but the said postal receipts does not show that the same were with regard to the appeal preferred. Once, the appellant was relying upon the postal receipts, he could have got the information from the postal Department that the communication being sent, in pursuance to which the postal receipts were issued, were delivered to the addressee. In the absence of any said

evidence on record, it cannot be said that finding recorded by the Courts below is perverse.

This fact becomes more important for the reason that the respondents from the day one denied the receipt of any such appeal which is alleged to have been filed by the appellant-plaintiff.

Keeping in view the facts and circumstances of the present case stated hereinbefore recording of a finding that the suit filed by the appellant-plaintiff is time barred on the date when the same was filed in January 1988 cannot be treated to be perverse or contrary to the facts or evidence on record.

No ground is made out for any interference called by this Court.

Dismissed.

February 27, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes