

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**(107) CM-8049-C-2022 and
CM-7643-C-2022 in/and
RSA-3865-2001
Date of Decision : January 23, 2023**

Raj Kumari .. Appellant

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.P.S. Ghuman, Advocate, for the applicant/appellant.
Ms. Vibha Tewari, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-8049-C-2022

As prayed for, the application is allowed.

CM-7643-C-2022

Present application has been filed for early hearing of the matter by giving actual date in the light of order dated 11.01.2018.

Notice of the application to the counsel opposite.

Ms. Vibha Tewari, Assistant Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondents and raises no objection qua the prayer raised in the present application.

Keeping in view the facts mentioned in the application, the same is allowed and the present Regular Second Appeal is taken up for hearing today.

RSA-3865-2001

Present Regular Second Appeal has been filed against the judgment of the lower Appellate Court dated 26.05.2001 by which the judgment of the trial Court dated 18.07.1997 has been set aside and the suit filed by the appellant-plaintiff has been dismissed.

In the suit filed by the appellant-plaintiff, she was seeking declaration to the effect that she is entitled for regularization and the benefits of the service rendered as a Craft Teacher in the District Rural Development Agency (DRDA), Narnaul be given to the appellant-plaintiff while fixing the salary in the later appointment as a Craft Sahaiyaka with the Panchayat Samiti, Narnaul. The trial Court had allowed the suit vide judgment and decree dated 18.07.1997 but on an appeal preferred by the Panchayat Samiti, Narnaul-defendant No.3, the said order of the trial Court had been set aside vide decision dated 26.05.2001. While setting aside the judgment and decree of the trial Court, the lower Appellate Court has recorded that the similarly situated employee as the plaintiff had approached the Hon'ble Punjab and Haryana High Court by filing CWP No.4750 of 1985 wherein, similar prayer of the said employee namely Kamlesh Rani was not accepted by the Coordinate Bench of this Court and the writ petition was dismissed, hence, once a similar prayer has not been accepted by the High Court, the grant of benefit by the trial Court in its decision dated 18.07.1997 was contrary to the decision of the High Court in **CWP**

No.4750 of 1985 titled as Kamlesh Rani vs. State of Haryana, decided on 23.04.1992.

In the present Regular Second Appeal, the challenge is to the order passed by the lower Appellate Court dated 26.05.2001.

Learned counsel for the appellant-plaintiff argues that the judgment of the trial Court was based upon the evidence and hence, setting aside the said judgment by the lower Appellate Court vide judgment dated 26.05.2001 is incorrect, therefore, the order passed by the lower Appellate Court dated 26.05.2001 should be set aside and the judgment of the trial Court be upheld so as to allow the suit filed by the plaintiff.

Learned counsel for the respondents submits that the judgment of the lower Appellant Court is based upon the decision in ***Kamlesh Rani's case (supra)*** wherein, a similarly situated employee as the appellant-plaintiff had claimed the same relief as being claimed by the appellant-plaintiff in the suit, which relief was not extended by this Court to the said similarly situated employee and the reasons were given by this Court for not accepting the similar plea, hence, the judgment of the lower Appellate Court which is based upon the order passed by a Coordinate Bench of this Court in ***Kamlesh Rani's case (supra)*** is perfectly valid and legal.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Learned counsel for the appellant-plaintiff has not been able to show that there is any difference in the claim being made by the appellant-plaintiff in the present suit as compared to the prayer made by the similarly situated employee namely Kamlesh Rani before this Court in CWP No.4750

of 1985, decided on 23.04.1992.

Once, the prayer in both the cases is the same and in the year 1992, much prior to the filing of the present suit, the similar prayer raised by similarly situated employee had already been declined by the Coordinate Bench of this Court while passing order in ***Kamlesh Rani's case (supra)***, the allowing of the suit by the trial Court in the year 1997 and that too without appreciating the said findings recorded by the High Court in ***Kamlesh Rani's case (supra)***, is clearly contrary to the the decision of this Court in ***Kamlesh Rani's case (supra)***.

Learned counsel for the appellant-plaintiff very fairly conceded that the arguments which have been raised and accepted by the trial Court, were also raised before this Court in ***Kamlesh Rani's case (supra)*** but were not found valid for grant the benefit by a Coordinate Bench of this Court, hence, under these circumstances, allowing of the appeal by the lower Appellate Court so as to set aside the judgment of the trial Court being contrary to the settled principle of law settled by this Court in ***Kamlesh Rani's case (supra)***, cannot be faulted with.

No other point has been raised by the learned counsel for the appellant.

Keeping in view the above, as no infirmity has been pointed out by the learned counsel for the appellant in the order dated 26.05.2001 passed by the lower Appellate Court and it is a conceded position that the claim of the appellant-plaintiff is covered against her keeping in view the judgment of this Court in ***Kamlesh Rani's case (supra)***, no interference is called for by this Court in the present appeal.

Dismissed.

January 23, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No