

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 5662 of 2019 (O&M)****Date of Decision: 12.09.2023**

Hari Singh

... Appellant(s)

Versus

CCS Haryana Agriculture University Hisar and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. P.K.Chugh, Advocate
for the appellant(s).**Anil Kshetarpal, J.****CM-16126-C-2019**

1. For the reasons stated above, the present application is allowed and delay of 324 days in re-filing the appeal is condoned.

RSA-5662-2019

2. 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*.

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

4. The plaintiff's suit for the grant of decree of declaration with a consequential relief of permanent injunction directing the respondents to release his retiral benefits has been dismissed by both the courts below. It

has been found that the appellant did not hand over the charge of three different departments, namely Department of Home Science, Department of Horticulture and Department of Agricultural Engineering and Technology, after he has been shifted from these departments. After the show cause notice, the disciplinary proceedings were initiated and the appellant was penalized with the recovery of the damages suffered by the university. Both the Courts below, on appreciation of the evidence, have concurrently found that the university was entitled to adjust the amount which was recoverable from the appellant. Even the university has filed a counter-claim which was partly decreed.

5. The learned counsel representing the appellant submits that there is no provision in the rules which permits the university to recover the amount from the retiral dues. He further submits that the amount could be recovered when the appellant was in service.

6. This Court has considered the submissions. The appellant retired on 30.06.2008. Certain orders for recovery were passed before the retirement of the appellant, however, certain orders were passed post his retirement.

7. On a Court question, the learned counsel representing the appellant has failed to draw the attention of the Court to any provision in the rule which debars the university from recovering the loss.

8. 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.

9. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

September 12, 2023
“DK”

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