

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108)

CM-5079-C-2023 in/and
RSA-4683-2010
Date of Decision : 11.05.2023

State of Haryana and others

...Appellants

Versus

Gorav and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, Assistant Advocate General, Haryana
for the appellants.

Mr. Rakesh Nagpal, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

CM-5079-C-2023

Present application has been filed for fixing the main RSA to
an early actual date of hearing.

Notice of the application to the counsel opposite.

Ms. Vibha Tewari, learned Assistant Advocate General,
Haryana, who is present in Court, accepts notice on behalf of the appellants-
State and raises no objection for the grant of prayer as made in the present
application.

Keeping in view the above, application is allowed and the main
RSA No. 4683 of 2010 is taken up for hearing today.

RSA-4683-2010

1. The present regular second appeal has been filed challenging
the judgments and decrees of the courts below by which, the claim of the

respondents-plaintiffs has been allowed for the grant of compassionate appointment.

2. Learned counsel for the appellants-defendants submits that in the present case, unfortunately, the father of the respondents-plaintiffs, who was working with Transport Department, Haryana, died on 15.05.2001 and after the death, the compassionate appointment was being sought, which claim was considered by the department under the Policy of the year 2003 and the same was rejected by order dated 08.11.2004, which order was challenged by the respondents-plaintiffs by filing a suit before the civil court.

3. Learned counsel for the appellants-defendants further submits that though, it has been mentioned by the civil court that the Policy of the year 2003 will not be applicable as the death of the father of the respondents-plaintiffs occurred in the year 2001 and the Policy, which was applicable at the time of the death of the father of respondents-plaintiffs will be applicable but no such Policy was on record to record a finding that the respondents-plaintiffs are entitled for compassionate appointment even as per the Policy, which was in existence at the time of the death of the father of the respondents-plaintiffs hence, in the absence of the material evidence on record, no direction could have been given for the grant of compassionate appointment.

4. Learned counsel for the respondents-plaintiffs concedes the factum that no Policy, on the basis of which the claim of the respondents-plaintiffs has been allowed for the grant of compassionate appointment, was on record but submits that in the present case, the Policy of the year 1995

will be applicable. On being asked, as to whether the said Policy was on record, learned counsel for the respondents-plaintiffs very fairly conceded that no such document of the Policy was brought on record.

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

6. From the facts, which have been stated hereinbefore, it is clear that the main document, which was required to be considered as to whether, the respondents-plaintiffs are entitled for the compassionate appointment i.e. the Policy, which was applicable on the date of death of the father of the respondents-plaintiffs, was not on record. In the absence of any such Policy on record, the Courts could not have evaluated the claim of the respondents-plaintiffs so as to come to the conclusion as to whether the respondents-plaintiffs are entitled for the grant of compassionate appointment in pursuance to the said Policy.

7. Faced with this situation, learned counsel for the respondents-plaintiffs submits that the order passed by the lower appellate court may kindly be set-aside and the case be remanded back with liberty to the respondents-plaintiffs to file appropriate application for bringing on record the said Policy for consideration of the issue which arise in this appeal.

8. Keeping in view the above, the judgment and decree of the lower appellate court dated 27.05.2010 is set-aside and the case is remanded back to the lower appellate court for fresh consideration in accordance with law on the basis of which evidence, which either on record or comes on record.

9. Appeal is allowed in above terms.

Any application, if pending, stands disposed of.

May 11, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No