

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

RSA-2278-2017

Date of Decision :02.05.2023

Bahadur Chand Sahni (now deceased) through LRs**...Appellants****Versus****State of Haryana and others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Bharat Bhushan Sharma, Advocate for appellants.

Ms. Vibha Tewari, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. Present regular second appeal has been filed challenging judgment and decree dated 07.11.2016 passed by the Lower Appellate Court by which, judgment and decree of the trial Court dated 17.09.2015 by which, suit filed by the appellant-plaintiff was allowed, has been set aside and the suit filed by the appellant-plaintiff has been dismissed.

2. Certain facts need to be noticed for the correct appreciation of the controversy in question.

3. Kumari Santosh Sahni, who was working as Principal in Government Sr. Sec. School, Safidon, District Jind unfortunately died on 30.04.2009 at Saharanpur (U.P.). After the death of Kumari Santosh Sahni, who died unmarried, being a legal heir and natural guardian, father of the deceased i.e appellant-plaintiff-Bahadur Chand Sahni claimed the service benefits in respect of the services rendered by her late daughter Kumari

Santosh Sahni. Appellant-plaintiff also sought benefits under the Haryana Government Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (hereinafter referred to as '2006 Rules'). It is a conceded case that service benefits admissible in respect of the service rendered by Kumari Santosh Sahni have already been given to the appellant-plaintiff being her legal heir and the only dispute remains is whether in the facts and circumstances of the present case, the claim of the father of the deceased employee under 2006 Rules is admissible so as to consider him dependent upon Kumari Santosh Sahni.

4. The respondent-department got an enquiry conducted from the Tehsildar in order to ascertain the fact that whether the appellant-plaintiff was dependent upon Kumari Santosh Sahni or had other children so as to ascertain the claim raised under 2006 Rules qua the grant of ex-gratia benefits. In the report of the Tehsildar, it has come that appellant-plaintiff had two sons, who were living in Saharanpur and were having their own business and in fact at the time of the death of Kumari Santosh Sahni, she was in Saharanpur living with the families of her brothers along with her father and it was mentioned that keeping in view that fact that appellant-plaintiff was living with his sons in Saharanpur, the benefits under 2006 Rules were not extended to him by the administrative department.

5. Feeling aggrieved against the non-grant of the benefit under 2006 Rules, appellant-plaintiff filed a civil suit, which came to be allowed vide judgment and decree dated 17.09.2015 of the trial Court wherein, it has been held that appellant-plaintiff is entitled for the benefits under 2006 Rules as he was residing with the deceased employee and merely that after the death of the employee, appellant-plaintiff moved to Saharanpur, is no

ground to deny him the benefit under 2006 Rules. The Judgment and decree dated 17.09.2015 of the trial Court was assailed by the respondent-State before the lower Appellate Court and the lower Appellate Court came to the conclusion that as the appellant-plaintiff was not dependent upon her daughter and was living with his sons, he is not entitled for benefits under 2006 Rules and the suit filed by the appellant-plaintiff was dismissed vide judgment and decree dated 07.11.2016 of the lower Appellate Court. Hence, the present regular second appeal.

6. Learned counsel for the appellant-plaintiff argues that appellant-plaintiff was living with her daughter and had no other source of income and was dependent upon her and not upon his sons, who were living separately in Saharanpur with their families.

7. Learned counsel for the appellant-plaintiff further argues that the fact that the sons of the appellant-plaintiff having their own business cannot be treated to be a ground to decline the claim of the appellant-plaintiff for the grant of benefits under 2006 Rules on the ground that he was not dependent upon his daughter especially, when sons of the appellant-plaintiff made a statement before the Court that they were not maintaining their father.

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

9. The claim of the appellant-plaintiff is to be decided in view of the facts which have already come on record. It is a conceded fact that deceased employee was also living in Saharanpur at the time of her death along with her brothers and father. Once, even the deceased employee was living in Saharanpur with her brothers and father, it cannot be said that the

father i.e appellant was living with deceased in Jind and was not living with his two sons. The said factual position clearly enumerates that all the family members were living jointly at Saharanpur though, while raising the claim, the appellant-plaintiff claimed that his sons were not supporting or maintaining him, which fact was corroborated by his sons also before the Court.

10. This Court has to see whether the said statement was with motive or without motive as financial benefits were being claimed under 2006 Rules. Once, in the enquiry, it has already come on record that sons of the appellant-plaintiff were having their own business and the family was residing in Saharanpur and even the deceased employee was in Saharanpur at the time of her death, assertion that appellant-plaintiff was dependent upon his daughter and not upon his sons cannot be believed and has rightly been rejected by the lower Appellate Court so as to decline the grant of the benefit under 2006 Rules.

11. It is also a matter of fact that under 2006 Rules in order to claim benefit, legal heirs need to be dependent upon the deceased employee concerned. In the present case, the claim of the appellant-plaintiff was considered by the respondent-department and the same was only rejected on the basis of the report of the Tehsildar that appellant-plaintiff was not financially dependent upon the deceased employee as he was living with his two sons, who were having their own business. Even the said report has not been challenged or controverted independently by way of evidence in the present case. Statement of the two sons of the appellant that they were not maintaining their father despite he is living with them is to be considered along with other facts which have come on record and keeping in view the

totality of the circumstances the claim has rightly been rejected by the lower Appellate Court.

12. It may be noticed that during the pendency of the appeal, appellant unfortunately died and the appeal is being pursued by the two sons of the appellant, who recorded their statement that they did not maintain their father so as to get the financial benefits envisaged under 2006 rules.

13. Keeping in view the facts and circumstances noticed hereinbefore, no interference is called for by this Court in the findings recorded by the lower Appellate Court while dismissing the suit filed by the appellant-plaintiff and the present regular second appeal is accordingly dismissed.

May 02, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No