

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 2062 of 2018 (O&M)****Date of Decision: 20.09.2023**

Kreshan

... Appellant(s)

Versus

The Dhand Primary Agricultural Cooperative Society Limited, Dhand and

Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Yashdeep Nain, Advocate
for the appellant(s).Mr. Jaspal Singh Pannu, Assistant Advocate General,
Haryana.**Anil Kshetarpal, J.****CM-5691-C-2018**

1. For the reasons stated in the application, the same is allowed and delay of 80 days in filing the appeal is condoned.

CM-5690-C-2018

2. For the reasons stated in the application, the same is allowed and delay of 230 days in refiling the appeal is condoned.

RSA-2062-2018

3. 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*.

both the Courts below, is assailed in this second appeal filed by the plaintiff.

5. The plaintiff's suit for the grant of decree of declaration and damages on the ground that the plaintiff has been wrongly retired on attaining the age of superannuation is illegal.

6. In substance, the appellant claims that his date of birth recorded in the service book is incorrect, as in the school record, his date of birth is recorded as 17.10.1954. In evidence, it has come on record that as per the Register of Date of Birth maintained by the Registrar of Births and Deaths, the appellant's date of birth is 10.02.1950 (Ex.DA). Thus, both the Courts below have dismissed the suit.

7. The learned counsel representing the appellant submits that the date of birth recorded in the school register should be preferred. This submission has no substance because the date of birth recorded in the record of the Registrar of Births and Deaths is the primary evidence to prove the date of birth of an employee. Moreover, the appellant came to the Court on 16.12.2010, whereas he retired from the service on 27.02.2010. He joined the services somewhere in the year 1973. The Supreme Court, in *Karnataka Rural Infrastructure Development Limited vs. T.P.Nataraja and others, (2021) 12 SCC 27*, has held that such suits at the fag end of the service career are not maintainable.

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.

(Anil Kshetarpal)
Judge

September 20, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No