

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 2165 of 2018 (O&M)****Date of Decision: 19.09.2023**

Pritam Singh (Since Deceased) through Legal Representatives

... Appellant(s)

Versus

Chairman, Board of School Education, Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Chander Pal Tiwana, Advocate
for the appellant.(s).**Anil Kshetarpal, J.****CM-10451-C-2023**

1. In view of the prayer made in the application, which is supported by an affidavit, the same is allowed, subject to all just exceptions. The proposed legal representative, named in para 2 of the application, is the Class-I heir of appellant-Pritam Singh, who is stated to have died on 07.12.2021. They are permitted to be brought on record as the legal heirs of the appellant-Pritam Singh, for the purpose of prosecuting the present appeal.

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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 judgment passed by the First Appellate Court is challenged by the plaintiff in this second appeal.

4. The plaintiff, on attaining the age of superannuation, retired from the post of Superintendent on 30.06.2010. He filed a suit on 01.07.2013 for the grant of mandatory injunction directing the defendants to release the N.I.O.S. (Exam dues) along with interest as well as the interest on the delayed payment of the retiral benefits. The plaintiff was charge-sheeted on 14.03.2010 for permitting the students to use unfair means during the exam duty. Subsequently, the charge-sheet was dropped on 08.06.2012. The plaintiff submitted his pension papers on 18.07.2012, which was released on 06.08.2012.

5. The learned counsel representing the appellant submits that there was a delay of nearly two years and 1 month for releasing the pension dues.

6. This Court has considered the submissions. It is evident that the charge-sheet against the appellant was dropped only on 08.06.2012 and the appellant submitted his pension papers on 18.07.2012. Thereafter, the pension papers were promptly processed and the payment was released within a period of less than 20 days. As far as the payment of ₹1,648/- regarding exam dues is concerned, the Court has already observed that the aforesaid amount is payable by the N.I.O.S. Authority which is not a party to the suit.

7. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

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8. The learned counsel representing the appellant submits that there was no substance in the charge sheet, therefore, the same was withdrawn. This Court has considered the submissions. If the employer decides to drop the charges particularly when the employee has already retired, it would not be appropriate to draw an inference that there was no substance in the charge-sheet. Moreover, the pension papers were submitted by the appellant only on 18.07.2012.

9. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by the First Appellate Court. Hence, the present appeal is dismissed.

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

(Anil Kshetarpal)
Judge

September 19, 2023**“DK”**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No