

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-31-C-2018 in/&
RSA-27-2018 (O&M)
Date of Decision :25.04.2023

Sita Ram and another

....Appellants

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. PKS Phoolka, Advocate for the appellants.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-31-C-2018

As prayed for, application is allowed.

RSA-27-2018

In the Present regular second appeal, claim of the appellants is for appointment of appellant No.2 under the 'Larsgess Scheme' formulated by the railways for appointment. Both the Courts below have already declined the said appointment to the appellants on the ground that claim of the appellants is not covered under the scheme in question, which fact was being disputed by the appellants in the present regular second appeal.

Learned counsel for the appellants submits that in case an appropriate consideration is given to the claim of appellant No.2 for appointment under 'Larsgess Scheme', appellant No.2 would be entitled for

appointment as appellant No.1 had required numbers of years of service to his credit so as to make his son eligible for consideration for appointment under the Larsgeess Scheme’.

On being pointed out as to whether the said scheme is still in operation, learned counsel for the appellants very fairly concedes that the said scheme has already been set aside by the competent Court of law being arbitrary and illegal.

That being so, once, the scheme under which the appellants are claiming benefit, has already been set aside by the competent Court of law, no relief can be claimed under the said scheme.

At this stage, learned counsel for the appellants submits that though, the said scheme has already been set aside by the competent Court of law but the claim of the appellants existed prior to the date when the scheme in question was set aside hence, appellant No.2 will be entitled for consideration for appointment under the said scheme.

Argument being raised by the learned counsel for the appellants is fallacious and cannot be accepted. Any scheme which has been held to be arbitrary and illegal and has already been set aside by the competent Court of law, then the same is to be treated *void ab initio* from the date when the said scheme was framed. Hence, it cannot be said that the said scheme will remain in operation till the same was set aside so as to give any right to appellant No.2 to claim appointment. Once, the scheme in question has been set aside by the competent Court of law being arbitrary and illegal, no benefit under the said scheme can be granted to anyone.

Keeping in view the above mentioned facts, the present regular second appeal has been rendered infructuous hence, no further orders are

required to be passed in the present appeal and the same is disposed of as such.

April 25, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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