

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(244)

RSA-5746-2017 (O&M)

Date of Decision : 22.03.2023

The Siwan Primary Agriculture Cooperative Society Ltd. and Another

...Appellants

Versus

Jagroop Singh and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Saurabh Garg, Advocate for the appellants.

Mr. P.S. Jammu, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

CM-4703-C-2022

As the present regular second appeal has been listed for today, the present application seeking early hearing of the case has become infructuous and the same is also disposed off as such.

CM-4702-C-2022

Application is allowed, as prayed for.

RSA-5746-2017

The present regular second appeal has been filed against the judgment and decree of the lower appellate court dated 28.08.2017 by which, the suit filed by the respondents-plaintiffs has been decreed with

COST.

Certain facts need to be mentioned for the correct appreciation of the controversy in hand.

The father of respondent-plaintiffs No. 1 and 3 and husband of respondent-plaintiff No. 2, namely, Kewal Singh was working with the Siwan Primary Agriculture Cooperative Society Ltd. (hereinafter referred to as 'Society'). Unfortunately, Kewal Singh died on 20.04.2005. After the death, a claim was raised by the respondents-plaintiffs seeking compassionate appointment to one of the children of the deceased Kewal Singh and also for the grant of Ex-gratia benefits as admissible under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees (Amendment) Rules, 2006 (hereinafter referred to as '2006 Rules'), which had come into being w.e.f. 24.11.2006.

The suit filed by the respondents-plaintiffs was dismissed vide judgment and decree of the trial court dated 30.10.2015 against which judgment and decree, the appeal was preferred before the lower appellate court. The said appeal come to be decided on 28.08.2017, wherein, the judgment and decree of the trial court dated 30.10.2015 was set-aside and the suit filed by the respondents-plaintiffs was allowed so as to grant the benefit of compassionate appointment and also the Ex-gratia benefits being claimed under 2006 Rules. Hence, the present regular second appeal.

Learned counsel for the appellants-defendants submits that the benefits, which have been granted by the lower appellate court i.e. the compassionate appointment in favour of the children of the deceased employee as well as the Ex-gratia benefits under 2006 Rules being claimed, is without appreciating the controversy in the correct perspective. Learned

counsel for the appellants-defendants argues that as the deceased was an employee of the Society and there was no rule of the grant of compassionate appointment in favour of the employees of the Society and further the Ex-gratia benefits being claimed under 2006 Rules was only qua the Govt. employee and was not at all applicable upon the employees of the Society concerned hence, the judgment of the lower appellate court dated 28.08.2017 is contrary to the facts and evidence on record and has been passed without actually appreciating the contention of the appellants-defendants that 2006 Rules qua the Ex-gratia benefits are not applicable in the facts and circumstances of the present case.

Learned counsel appearing on behalf of the respondents-plaintiffs submits that the respondents-plaintiffs are not claiming the compassionate appointment as of now though the same has been allowed by the lower appellate court. Learned counsel for the respondents-plaintiffs submits that the only claim which subsists is the Ex-gratia benefits as admissible to the respondents-plaintiffs under 2006 Rules.

This Court is now to consider whether or not the grant of benefit of Ex-gratia amount by the lower appellate court is admissible in favour of the respondents-plaintiffs in pursuance to the 2006 Rules under which the same is being claimed by the respondents-plaintiffs.

The 2006 Rules are only applicable to the Government employees, which is clear from the title of the Rules itself. It is not applicable upon the members of a Society, which is totally an independent entity being maintained from its own sources. Learned counsel for the respondents-plaintiffs has not been able to point out as to how and under

what circumstances, the 2006 Rules have been made applicable upon the employees of the Society concerned. The benefit under 2006 Rules can only be granted to the Dependents of the Deceased Government Employees and it is a conceded position that Kewal Singh was not an employee of the Government but was an employee of a Co-operative Society.

Learned counsel for the respondents-plaintiffs submits that once the Co-operative Societies were under the control of the Registrar Cooperative Societies, the Members of the Society are to be treated so as Govt. employees to make 2006 Rules applicable upon them. The said argument is fallacious. Merely that the Societies are under the control of the Registrar Cooperative Societies for supervisory jurisdiction does not mean that Members of a totally independent Society, become a Government employees. The said argument is accordingly rejected.

Learned counsel for the respondents-plaintiffs submits that one employee, namely, Ramphal was granted Ex-gratia benefit hence, it is a case of discrimination. In respect of the said contention, it may be submitted that Ramphal was not the employee of the Society in which Kewal Singh (now deceased) was working. If any other Society has granted any such benefit to its employee, the same cannot be applicable upon the appellant-Society *ipso facto*. Further, nothing has been brought on record that any employee of the appellant-Society was given Ex-gratia benefit under 2006 Rules as being claimed by the respondents-plaintiffs. In the absence of any such fact/evidence brought on record, the judgments of the lower appellate court granting the said benefit in favour of the respondents-plaintiffs cannot be sustained and is accordingly set-aside.

Keeping in view the above, the judgment of the lower appellate court is perverse to the facts and evidence on record and cannot be sustained. The same is accordingly set-aside and the judgment of the trial court dated 30.10.2015 by which, the suit filed by the respondents-plaintiffs was dismissed, is brought in operation.

The present regular second appeal is allowed. Decree sheet be prepared accordingly.

CM-15200-C-2017 and CM-4704-C-2022

As the main appeal has been allowed, the present applications stand disposed of.

March 22, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No