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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7037-2019 (O&M)

Date of Decision:- 17.08.2023

THE STATE OF HARYANA THROUGH THE CHIEF SECRETARY
TO GOVERNMENT OF HARYANA AND OTHERS

....Petitioners

Vs.

MOHINI CHITKARA

...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Vikas Bali, Advocate for the petitioners.

AMARJOT BHATTI, J. (Oral)

CM-14457-CII-2023

This is an application under Section 151 CPC seeking permission to place on record additional documents marked as Annexure R-1 and R-2.

For the reasons stated in the application, CM is allowed. The accompanied documents are taken on record.

Main case.

1. The petitioners - The State of Haryana through the Chief Secretary to Government of Haryana and others filed civil revision against impugned order dated 17.07.2019 passed by learned Civil Judge (Jr. Divn.), Chandigarh vide which the objections filed by the petitioners were

dismissed illegally and arbitrarily and contrary to the provisions of law and principles of natural justice.

2. Learned State counsel argued that the respondent/plaintiff Smt. Mohini Chitkara was appointed as Junior Lecturer (English) through the Staff Selection Board (SSB), Haryana. She joined on 30.08.1974 in the Department of Government Polytechnic, Sirsa. She was habitual absentee and used to avail leave without prior permission. It was assessed by the authorities that she was not interested to do her job. Therefore, she was removed from service by the Appointing Authority vide order dated 04.07.1979 after providing reasonable opportunity under Haryana Civil Services, Punishment & Appeal Rules, 1952. The order was effective from 01.02.1977. The copy of the order dated 04.07.1979 is Annexure P-1. The representation filed by the respondent/plaintiff to reinstate her in the job was rejected vide order dated 21.06.1983, Annexure P-2. The respondent/plaintiff filed civil suit in August, 1986 which was decided vide judgment and decree dated 29.10.1987 whereby, 'her suit was decreed that she continued to be in service on the post of Junior Lecturer with consequential relief that she was entitled to all the benefits attached to the post from time to time as if she was in regular service throughout. But the defendants can consider her absence before termination as leave period.' This judgment was challenged by way of Civil Appeal No.17 dated 28.01.1988 which was accepted and the suit filed by the plaintiff was dismissed vide judgment and decree dated 06.12.1995, which is Annexure P-3. The respondent/plaintiff filed RSA No.986/1996 before this Court which was accepted vide order dated 16.05.2000, copy of order is

Annexure P-4. The State Government filed SLP (Civil Appeal No.5471/2001) which was decided by the Hon'ble Apex Court vide order dated 25.08.2004 and the parties were directed to appear before the Registrar General of High Court on 20.09.2004 so as to take directions for fixing of appeal before the Court, by accepting the appeal. Thereafter, the RSA No.986-1996 was again decided by Hon'ble High Court vide judgment and decree dated 02.09.2011 vide which the judgment dated 06.12.1995 passed by Additional Sessions Judge, Chandigarh was reversed and the decision of Sub-Judge 1st Class dated 29.10.1987 was upheld. During the implementation of said judgment and order dated 02.09.2011 it came into light in February, 2012 through application dated 17.02.2012 submitted by Smt. Mohini Chitkara that she was working as Assistant Professor in Chaudhary Charan Singh Haryana Agricultural University, Hisar during the period from 13.01.1992 to 31.01.2005. The appointment letter and the letter of relieving on retirement are Annexure P-5 and P-6. In pursuance of the judgment and decree in favour of the respondent/plaintiff the department has paid salary amounting to Rs.4,01,242/- for the period 01.02.1977 to 12.01.1992. She retired from CCS Haryana Agriculture University, Hisar on 31.03.2005 on attaining the age of superannuation and she got all the benefits of service rendered by her in the said University. Under these circumstances, the objections were filed by the JD/Objector in the execution application which were dismissed by passing the impugned order dated 17.07.2019. The learned Civil Judge (Jr.Divn.) Chandigarh has committed an error by holding that the Executing Court can not go beyond the judgment and decree except in exceptional circumstances. In the case in

hand, there are exceptional circumstances which are not considered by the Executing Court that the respondent/plaintiff was already serving in another University during the period of 13.01.1992 to 31.01.2005 where she retired on superannuation. She has already received all the benefits from the said University. Therefore, now she cannot claim the salary or other benefits for the period when she was serving in another University. Therefore, without considering this aspect of the present case the objections were wrongly declined by passing impugned order dated 17.07.2019. It is prayed that the impugned order dated 17.07.2019 may be set aside. The salary of earlier period is already deposited in her account. Therefore, the execution stood fully satisfied.

3. On the other hand, the learned counsel for the respondent/plaintiff took the stand that after long litigation the judgment and decree passed by Sub-Judge 1st Class, Chandigarh dated 29.10.1987 was upheld. There is no appeal or revision against the judgment and order dated 02.09.2011 passed by the Hon'ble High Court in RSA-986-1996 and the same has attained finality. The petitioner had also filed review application which was also dismissed. Therefore, the petitioners/JDs have no other alternative but to execute the judgment and decree dated 29.10.1987. During execution proceedings it is rightly held by the Executing Court that it cannot go behind the decree confirmed by the Hon'ble High Court. Therefore, considering the entire litigation, the objections filed by the petitioners/JDs were rightly declined by passing detailed order dated 17.07.2019. The present revision has been filed only to delay the proceedings and it deserves dismissal.

4. I have considered the arguments and have gone through the record carefully. The facts of the case and the long litigation which remained pending in this case is not disputed. Mohini Chitkara on account of her dismissal from service had filed a Civil Suit No.1310-1986 which was ultimately decreed by the then Sub-Judge 1st Class, Chandigarh vide judgment and decree dated 29.10.1987. The said judgment was challenged in appeal by the Secretary of Government of Haryana, Chandigarh and others by filing civil appeal No.319 dated 28.01.1998 which was accepted vide judgment and decree dated 06.12.1995, Annexure P-3 and the judgment and decree in favour of Mohini Chitkara was set aside. Feeling aggrieved of this judgment of reversal, Mohini Chitkara also filed RSA No.986-1996 and the appeal was accordingly accepted vide judgment/order dated 16.05.2000, which is Annexure P-4. Thereafter, the State Government filed SLP before Hon'ble Supreme Court of India and admittedly vide order dated 25.08.2004 the case was again remanded back to the High Court for decision. Ultimately, the RSA No.986-1996 was again decided vide judgment and order dated 02.09.2011 (Annexure R-1) and the appeal preferred by Smt. Mohini Chitkara, who is respondent-plaintiff, was accepted by reversing the judgment and decree dated 06.12.1995 passed by Additional Sessions Judge, Chandigarh upholding the judgment and decree dated 29.10.1987 passed by the then Sub-Judge 1st Class, Chandigarh. Thereafter, the execution proceedings were initiated by the respondent No.1/Decree Holder.

During the course of arguments, it was further revealed that the State of Haryana also filed one review application under Order 47

Rule 1 read with Section 151 CPC. The review application is also placed on record during the course of arguments and in para No.9 it is categorically stated that L.R. Haryana vide opinion dated 03.08.2012 advised that it was not a fit case for filing SLP and on that account the present review application was filed and in para No.10 it was categorically stated that Smt. Mohini Chitkara was working as Assistant Professor in Chaudhary Charan Singh, Haryana Agricultural University, Hisar from 13.01.1992 to 31.01.2005 and this fact was allegedly concealed by the respondent/plaintiff and on that account there was a prayer to review the judgment and order dated 02.09.2011, which is Annexure R-1. The said review application bearing RA-RS-30C of 2013 was declined vide order dated 20.01.2014 which is Annexure R-2. Therefore, considering the aforesaid orders, it is clear that the stand taken by the petitioners regarding the job taken up by the respondent/plaintiff for the period 13.01.1992 to 31.01.2005 was not considered to review the judgment and order dated 02.09.2011 and ultimately after long litigation the judgment and decree dated 29.10.1987 passed by the then Sub-Judge 1st Class, Chandigarh attained finality. Under these circumstances, the Executing Court is to execute the aforesaid judgment and decree in letter and spirit. The stand taken by the petitioners/JDs was not considered in the review application. Therefore, the same matter cannot be re agitated in the execution proceedings by filing the objections.

Resultantly, I do not find any illegality or irregularity committed by the Executing Court while passing the order dated 17.07.2019 and the same is accordingly upheld.

The revision preferred by the petitioners is accordingly declined.

Pending applications, if any, shall also stand disposed of.

17.08.2023

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(AMARJOT BHATTI)
JUDGE

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