

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 1768 of 2019 (O&M)****Date of Decision: 04.09.2023**

Baljeet Kaur

... Appellant(s)

Versus

State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Ashish Nagar, Advocate
for the appellant(s).Mr. J.S.Pannu, Assistant Advocate General,
Haryana, for the respondents.**Anil Kshetarpal, J.****CM-4729-C-2019**

1. For the reasons stated in the application, the same is allowed and delay of 14 days in filing the appeal is condoned.

RSA-1768-2019

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 concurrent findings of facts, arrived at by both the Courts below, is assailed in this second appeal filed by the plaintiff.

4. The plaintiff's suit for the grant of decree of declaration that the

order dated 06.01.2006 is illegal, null and void with a consequential relief of mandatory injunction has been dismissed by both the Courts below. It has been found that in the departmental inquiry, the husband of the appellant was given an opportunity to defend the charge sheet issued to him. Ultimately, the Punishing Authority passed an order of stoppage of one increment with cumulative effect. The correctness of the aforesaid order was challenged by the appellant on the ground that the appellant's husband was acquitted in the criminal case. Both the Courts below have held that such acquittal in a criminal case shall have no effect, particularly when in the departmental proceedings, he has been found to have indulged in the misconduct.

5. The learned counsel representing the appellant has failed to draw the attention of the Court to any misreading or non-reading of the substantive evidence. It has also come on the record that after the receipt of the report, the appellant's husband was issued the Show Cause Notice, but he did not appear before the Punishing Authority.

6. 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.

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

(Anil Kshetarpal)
Judge

September 04, 2023

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No