



RSA-1971-2022 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision:20.09.2024

PRIYANKA

...APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Subhash Ahuja, Advocate for the appellant.

SUVIR SEHGAL, J.

1. Appellant-plaintiff is in second appeal before this Court challenging the concurrent finding of fact recorded by the Courts below.
2. Plaintiff filed a suit for declaration claiming ex-gratia employment being dependent on her deceased-father, Durgesh Kumar, as also half share in the pensionary and other benefits. Pleading case of the plaintiff, is that her father-Durgesh Kumar, who was working as a Clerk in the Industrial Training and Vocational Education Department, died in harness on 18.08.1995 leaving behind his widow, defendant No.4, and the plaintiff as legal heirs. Defendant No.4 was serving as a J.B.T. teacher with the Government of Haryana and the plaintiff was minor at the time of the untimely demise and not eligible for employment. When the plaintiff attained majority, defendant No.4 forcibly got her married, but, the matrimony ended in a divorce. Plaintiff was forced to marry again and the



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second marriage is in litigation. Claiming that she is a graduate and is now aged about 30 years with no source of income, she filed the suit as noticed above.

3. Upon notice, suit was contested by defendants No.1 to 3 and defendant No.4 by filing separate written statements. In their response, defendants No.1 to 3 averred that as per instructions dated 08.05.1995, Ex.D1, plaintiff was not entitled for employment under the ex-gratia scheme and that the retiral benefits of the deceased have been disbursed to defendant No.4 as per the Family Pension Scheme, 1964, and the plaintiff is not entitled to the same. In her separate written statement, respondent No.4 stated that she had met the education and marriage expenses of the plaintiff, out of the retiral benefits received by her. It was also submitted that the plaintiff was running a beauty parlour and conducting computer classes, from where, she was earning a handsome income. Issues were framed on the pleadings of the parties, who led evidence in support of their respective case. After they were heard, by judgment and decree dated 05.08.2021, Trial Court dismissed the suit. Plaintiff remained unsuccessful before the First Appellate Court and her appeal was rejected by the learned District Judge, Panipat, by judgment dated 14.12.2021, resulting in the institution of the present appeal.

4. I have heard Mr. Subhash Ahuja, counsel for the appellant and considered his submission.

5. In **State of West Bengal Versus Debabrata Tiwari and others**

2023 SCC OnLine SC 219, Supreme Court has held that compassionate

appointment is in the nature of an exception to the general provisions and

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must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis. It is not a vested right, which can be exercised at any time in future and it cannot be claimed or offered after a lapse of time when the crisis is over. The financial crisis, the liabilities of the family, the terminal benefits, income from any other sources, etc. are factors to be kept in mind while offering the ex-gratia employment to a family member of the deceased.

6. During the course of arguments, Mr. Ahuja could not dispute that the plaintiff's claim for ex-gratia employment was rejected by the defendants vide letter dated 20.06.1996, Ex.PW2/B primarily on the ground that her mother-defendant No.4 was in government service and the family is not in dire straits. Despite the rejection of the claim in the year 1996, appellant-plaintiff chose to file the suit for declaration in the year 2017. Suit is clearly barred by time. Furthermore, a perusal of the government instructions dated 08.05.1995, Ex.D-1, shows that the appellant has not fulfilled the conditions laid therein as she did not apply for compassionate appointment within three years of attaining the age of majority. Suit has been filed by her after attaining the age of 30 years.

7. Insofar as the second relief claimed in the suit is concerned, the Lower Appellate Court has noticed Rule 14 of the Family Pension Scheme, 1964, as clarified by the government vide instructions dated 01.01.2014, Ex.D3 and has come to the conclusion that till the time, the plaintiff's mother (defendant No.4) is alive, plaintiff does not have any right to claim family pension. This Court does not find any error in the reasoning recorded by the Lower Appellate Court, which is affirmed.

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8. Appeal is bereft of merit and is dismissed with no order as to costs.
9. Pending application is disposed of.

20.09.2024

(SUVIR SEHGAL)

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JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No