

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

125RSA NO. 1897 OF 1993
DATE OF DECISION: 12.03.2024

Shanti Devi.....Appellant

VERSUS

State of Haryana and another.....Respondents

CORAM HON’BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PresentMr.R.K.Malik, Sr.Advocate
with Mr. Kartikey Chaudhary, Advocate,
for the appellant.

Mr. Harish Nain, AAG, Haryana.

HARSIMRAN SINGH SETHI, J (ORAL)

1. In the present appeal, the challenge is to the judgment of the lower Appellate Court, by which, the judgment and decree of the trial Court dated 24.04.1991 has been set aside and the suit filed by the appellant/plaintiff has been dismissed.
2. The grievance which was raised by the appellant/plaintiff before the Civil Court was that appellant/plaintiff was not allowed to cross Efficiency Bar so as to grant the higher pay scale vide order dated 27.05.1977, 27.04.1978, 12.03.1980, 13.02.1980, 29.09.1982, 27.09.1983, 20.10.1987, 05.11.1987 and 30.11.1987.
3. The prayer of the appellant/plaintiff was to allow her to cross the Efficiency Bar from the required date of attaining the eligibility i.e from the year 1976.
4. The Trial Court allowed the suit filed by the appellant/plaintiff and held that the non crossing of the Efficiency Bar in the case of the petitioner was based upon the Annual Confidential Report, which was not communicated to the

appellant/plaintiff hence, the same could not have been taken into account for any purpose. Hence, the appellant/plaintiff was held entitled for the benefit of crossing of the Efficiency Bar from the year 1976 along with all the consequential benefits.

5. Feeling aggrieved against the said decision, an appeal was preferred by the respondent/State, which came to be allowed on 28.05.1993. The appellate Court held that as, the order by which the appellant/plaintiff was not allowed to cross the Efficiency Bar have not been challenged and the claim of the appellant/plaintiff for allowing to clear the Efficiency Bar from the year 1976, the suit is time barred. Hence, the Regular Second Appeal.

6. The learned senior counsel for the appellant submits that even if, the suit which was filed in the year 1988 was time barred qua the orders starting from the year 1977 till 1983 but, the same should have been within limitation qua the orders dated 20.10.1987, 05.11.1987 and 30.11.1987 hence, the benefit should have been accorded by the lower Appellate Court qua these orders.

7. It may be noticed that on being asked to show that the order dated 20.10.1987, 05.11.1987 and 30.11.1987 were ever challenged in the suit seeking the declaration that those are bad in law, learned senior counsel concede the factum that these orders were not under challenge. Once, these orders dated 20.10.1987, 05.11.1987 and 30.11.87 are not under challenge, any relief which has been declined by the respondent in those orders, cannot be made the subject matter of the suit. Once the orders which have been specifically passed declining the relief of crossing of the Efficiency Bar in the year 1987 and those orders have not been impugned by filing the suit, the legality of the said order cannot be gone into by saying that the said orders are arbitrary or illegal or contrary to the settled principle of law.

7. As, the relief which was being claimed by the plaintiff is to grant him the benefit of crossing of the Efficiency Bar from the year 1976, a suit filed in the year 1988 and that too without challenging the order by which the said relief was specifically declined, is to be treated as time barred with regard to the claim which

was beyond three years as on the date of the filing of the suit. With regard to the orders which were within the period of three years, rightly, no relief has been granted as, the said orders have never been impugned by the appellant/plaintiff by filing the civil suit.

8. Keeping in view the above, no perversity could be pointed by the learned senior counsel in the judgment of the learned lower Appellate Court so as to decline the relief as being claimed by the appellant/plaintiff.

9. Dismissed.

12.03.2024
mamta

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No