

CM-1434-C-2023 ;
CM-1435-C-2023 in/and
RSA-3703-2003

2024:PHHC:075232



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(209)

CM-1434-C-2023 ;
CM-1435-C-2023 in/and
RSA-3703-2003
Date of Decision : 27.05.2024

Ms. Kulwant Kaur

...Appellant

Versus

Registrar, Guru Nanak Dev University, Amritsar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.S. Pheruman, Advocate for the appellant.
Mr. M.K. Dogra, Advocate for respondent No. 1.
Mr. Ankit Grewal, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM-1435-C-2023

Present application has been filed for fixing the appeal to an early actual date of hearing.

In pursuance to the notice issued to learned counsel for the respondents, learned counsel for the respondents appear and raise no objection for the grant of prayer as made in the present application.

Keeping in view the averments made in the application as well as no objection raised by learned counsel for the respondents, the



application is allowed and on the joint request of learned counsel for the parties, the present appeal is taken up for hearing today itself.

RSA-3703-2003

1. The present regular second appeal has been filed challenging the judgment and decree of the trial court dated 26.03.2002 as well as judgment and decree of the lower appellate court dated 27.01.2003 by which the suit filed by the appellant-plaintiff claiming the benefit of pension has been dismissed.

2. Learned counsel for the appellant-plaintiff has argued that the appellant-plaintiff joined the respondent-University as a Clerk on 04.08.1982 and she got premature retirement as per her own request on 08.11.1999 and hence, as she has rendered 17 years, 03 months and 05 days of meritorious service with the respondent-University, she is entitled for the grant of benefit of pension and other pensionary benefits, which benefits have wrongly been denied not only by the respondent-University but even by the courts below as correct facts have not been appreciated.

3. Learned counsel for the respondents-defendants, on the other hand, submits that though the date of joining in service and the date of premature retirement of the appellant-plaintiff are correct but the appellant-plaintiff was granted three years extraordinary leave, which leave cannot be taken into account for any purposes and hence, she had only rendered 14 years, 03 months and 05 days of service, which is less than 15 years and keeping in view the rules governing the service, which



rules have already been noticed by the courts below in the judgment, the appellant-plaintiff does not have minimum 15 years of service to get the benefit of pension, hence, the said benefit has rightly been declined to the appellant-plaintiff.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. Nothing has come on record that the appellant-plaintiff has completed 15 years of service, which is required for the grant of pensionary benefits. Though, from the date of joining the service and the date of retirement, there is a period of 17 years and 03 months but during the said service period, the appellant-plaintiff availed extraordinary leave for a period of three years and after deducting the same, the qualifying service period of the appellant-plaintiff is less than 15 years.

6. As per the University manual, the appellant-plaintiff cannot be treated as retired for which 15 years service is necessary. Once, 15 years service has not been completed by the appellant-plaintiff, no benefit qua pension can be extended to her. No rule has been brought to the notice of this Court or even before the courts below to show that the appellant-plaintiff had 15 years of service.

7. Even otherwise, in the regular second appeal, the perversity in the concurrent findings is to be seen, whereas, no such perversity has been pointed out by the learned counsel for the appellant-plaintiff so as to seek any intervention of this Court in the present regular second appeal.

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8. No ground is made out for any interference by this Court in the present regular second appeal.

9. Dismissed.

Pending miscellaneous application, if any, also stands disposed of.

May 27, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No