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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-17-1996

Date of order:-31.01.2024

Walaiti Ram (Retired Headmaster)

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr.J.P.S. Sandhu, Advocate
for the appellant.

Mr.Athar Ahmed, DAG, Punjab
for respondents.

SUVIR SEHGAL, J.

1. Plaintiff – appellant has filed the second appeal challenging the judgment and decree dated 28.09.1995 passed by the First Appellate Court.

2. Walaiti Ram – plaintiff/appellant has filed a civil suit averring that he was working as a Headmaster in Guru Gobind Singh Khalsa School, Saidoke since 1953. The school was taken over by the Punjab Government and re-named as Government High School and he was absorbed as a Headmaster by order dated 15.07.1969. He retired from service on 28.02.1985 on attaining the age of superannuation and

submitted all the requisite papers for payment of retiral dues. Claiming that although payment of pension and GP fund was disbursed, but payment of gratuity was withheld, he filed a suit for declaration to the effect that withholding of gratuity is illegal etc. He claimed that neither any show-cause notice was issued to him nor any inquiry proceedings were held and withholding of the dues was against the principles of natural justice. Upon notice, defendants/respondents filed a written statement contesting the suit. Besides taking various preliminary objections, it was submitted that amount of Rs.27,257.40 was outstanding against the plaintiff – appellant and he had illegally withdrawn some amount from the Government Treasury and after adjusting the same against the gratuity payable to him, an amount of Rs.15,203/- is still due from him. Issues were framed on the basis of the pleadings of the parties and after the parties led evidence, trial Court by judgment and decree dated 13.05.1993 decreed the suit to the effect that plaintiff – appellant is entitled to the payment of gratuity along with all other benefits from the due date with interest at the rate of 12% per annum.

3. In appeal preferred by defendants – respondents, the First Appellate Court reversed the findings, set aside the judgment and decree passed by the trial Court and dismissed the suit. It is in this backdrop that the plaintiff – appellant is before this Court by way of present appeal.

4. Counsel for the parties have been heard and documents have been examined with their able assistance.

5. Lower Appellate Court has recorded a finding that plaintiff

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– appellant did not approach the Civil Court with clean hands and had suppressed the document Ex.D9, which shows that no demand certificate was never issued by the District Education Officer, as had been claimed by the plaintiff. After examining Ex.D9, it is apparent that an audit objection had been raised that an amount of Rs.27,257/- is due from the plaintiff – appellant. Documents Ex.D2 to Ex.D8, which relate to different periods also evidence the audit reports, which show the recoveries to be effected from plaintiff. Proceedings for the recovery of the said amount were pending against the plaintiff – appellant at the time of his retirement, as the amount was allegedly embezzled by him while he was discharging the duties as a Headmaster.

6. From the evidence on the record, it is clear that there were allegations of misappropriation and amount was due from the plaintiff – appellant, which had resulted in the withholding of gratuity. Moreover, Plaintiff – appellant has not challenged the recoveries. This Court does not find any reason or material to disagree with the findings recorded by Lower Appellate Court. The judgment and decree passed by the Lower Appellate Court deserves to be upheld.

7. As a sequel of the above discussion, the findings recorded by the First Appellate Court are affirmed and the present appeal is dismissed with no order as to costs.

(SUVIR SEHGAL)
JUDGE

31.01.2024

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No