

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA NO.2197 of 1997 (O&M)
Date of Order:05.01.2024

Darshna Kumari

.Appellant

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Somnath Saini, Advocate
for the appellant.

Mr. Gurpreet Singh, Addl. A.G., Punjab

ANIL KSHETARPAL, J

1. 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 vs. Chandrika and others, (2016) 6 SCC 157.*
2. The plaintiff in this regular second appeal assails the correctness of the judgment passed by the first appellate court which in turn has reversed the judgment passed by the trial court.
3. On 28.02.1994, the plaintiff filed a suit for the grant of decree of declaration with consequential relief of mandatory injunction. She claims the benefit of her designation as a Senior Clerk on completion of 5 years service as a Clerk including the period she served in District Sangrur.
4. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
5. The plaintiff joined as a Clerk on 07.09.1982, in Tehsil Office

Barnala, District Sangrur. In the year 1987, she applied for her transfer from District Sangrur due to her family circumstances. She undertook that she will not claim the benefit of service rendered in District Sangrur. As per the service rules, the seniority of Clerks is maintained districtwise and their cadre is restricted to a particular district. In other words, the appellant prayed for her shifting out of her cadre. The Deputy Commissioner, Patiala, accepted the request and she was transferred to District Patiala subject to the condition that she shall not be entitled to claim the benefit of seniority etc. for her services rendered in District Sangrur. However, she claims that on 14.11.1991, 109 Clerks were designated as Senior Clerks and the benefit of seniority was given to various other persons who were transferred from other districts.

6. The trial court decreed the suit, however, the First Appellate Court has reversed the same.

7. The court has found that the appellant has herself given in writing while seeking her transfer from District Sangrur to District Patiala that she would not claim any benefit of service rendered in District Sangrur. Moreover, there is no material placed on the record to prove that in the year 1991, similar benefits were given to various other clerks who were identically situated. In this case, she was transferred to District Patiala on her own request. Once she undertook to give up the benefit of service rendered by her in District Sangrur, she cannot now be permitted to take a U-turn and re-claim the aforesaid benefits. It may be significant to note here that she has been designated as a senior clerk with effect from 01.07.1992.

8. Keeping in view the aforesaid facts and discussion, no ground

to interfere is made out.

9. Dismissed, accordingly.
10. All the pending miscellaneous applications, if any, are also disposed of.

January 05, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO