

RSA-2772-1999 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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RSA-2772-1999 (O & M)

Date of decision:-04.04.2024

MAUJI RAM

...APPELLANT

VERSUS

THE STATE OF HARYANA & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ramesh Hooda, Advocate for the appellant.

Mr. Sharad Aggarwal, DAG, Haryana.

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**SUVIR SEHGAL, J.**

1. Aggrieved against the judgments and decrees passed by both the Courts below, plaintiff is before this Court in the instant second appeal.
2. Plaintiff-appellant filed a suit for mandatory injunction directing the defendants to count the military/war service rendered by him from 01.04.1943 to 31.03.1946 for purpose of computation of pension. He pleaded that he joined Indian Army on 01.04.1943 and served during the great world war and was discharged on 29.04.1948. He joined the civil service and retired on 31.10.1977 from the Government School of Arts,

Rohtak. Asserting that military service rendered by him from 01.04.1946 to 28.04.1948 has been counted as qualifying service for pension, however, the period from 01.04.1943 to 31.03.1946 has wrongly not been taken into account, he filed a suit as mentioned above.

3. Upon notice, suit was contested by the defendant-respondents taking various pleas including that of limitation. On merits, it has been submitted that military service, which stood verified has been taken into account. It has been further submitted that the plaintiff was appointed as a Store-keeper in the Agriculture Implements Work Centre, Rohtak on 25.06.1953 in the undivided State of Punjab and retired from the post of Store Keeper on 31.10.1977. His case for grant for benefit of military service was referred to the Government by letter dated 14.09.1979 and the verified service was ordered to be counted. It has been further submitted that the suit has been filed by the plaintiff after 17 years of his retirement and is time barred. Plaintiff reiterated his claim by filing a replication. Issues were framed and after the parties led evidence, Trial Court by judgment and decree dated 07.08.1996, dismissed the suit. First appeal filed by the plaintiff was rejected by the learned Additional District Judge, Rohtak, on 08.02.1999 resulting in the institution of the present appeal.

4. I have heard counsel for the parties and examined the record with their able assistance.

5. The onus to prove that the entire service from 1943 till 1948 was verified, was on the plaintiff. However, counsel for the plaintiff-appellant could not point out any document on the record to support his

assertion that the service from 01.04.1943 to 31.03.1946 has been verified. Reliance placed by him upon the certificate, Ex.P-1, is of no aid to him. A perusal of the certificate rather shows that against some of the columns, particularly columns No.17 and 18, it has mentioned “not known”. Plaintiff deposited an amount of Rs.88.53/- on account of service gratuity for the period from April 1946 to April 1948, which was for refund to the Defence Services, before the said period could be considered as qualifying service for pension. However, no evidence was lead to show that the service gratuity for the period prior thereto was also deposited by him.

6. Furthermore, although he had retired in March, 1977, the plaintiff-appellant approached the civil Court in October, 1994. Mere fact that he had submitted repeated representations before the authorities would not extend the period of limitation as has been held by the Supreme Court in S.S. Rathore Versus State of Madhya Pradesh 1989 (4) SCC 582.

7. In view of the above discussion, this Court is of the view that the judgments and decrees passed by the Courts below do not call for any interference.

8. Finding no merit in the appeal, it is hereby dismissed with no order as to costs.

9. Pending application(s), if any, shall stand disposed of.

04.04.2024  
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(SUVIR SEHGAL)  
JUDGE

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |