



RSA-311-2022(O&M)

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**THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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RSA-311-2022 (O&M)
Date of decision: 25.07.2024

Balwant Ram

... Appellant

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Dinesh Sharma, Advocate for the appellant.

SUVIR SEHGAL J.

CM-640-C-2022

1. For the reasons given therein, application is allowed.
2. Delay of 72 days in filing of the appeal is condoned.

Main case

3. Plaintiff-appellant is in second appeal before this Court challenging the concurrent finding recorded by both the courts below.
4. Pleaded case of the plaintiff is that on the death of his mother, Ram Kali, who was working as a Sweeper in the office of defendant No.2, he was entitled to compassionate appointment being the eldest son of the deceased. He filed a suit for declaration and



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sought permanent injunction restraining defendants No.1 and 2 from offering the job on compassionate grounds to defendants No. 4 to 8.

5. Upon notice, defendants No.1 and 2 filed a written statement contesting the suit wherein they admitted the relationship between the plaintiff and the private defendants. It was submitted that defendant No. 5, Sanjiv Kumar, a brother of the plaintiff, had moved an application for appointment on compassionate basis and that the plaintiff had been disinherited by his father who had furnished an affidavit to the effect that the plaintiff should not be offered the appointment. Defendants No. 3 to 8 filed separate written statements contesting the suit wherein various objections were taken on merits. They submitted that the plaintiff had been disinherited and was living separately. He was not taking care of his family members. They claimed that defendant No.5 was entitled to be appointed in the place of the deceased. Plaintiff did not file any replication and issues were framed on the basis of the pleadings of the parties, who led evidence in support of their case. After hearing them, trial Court by judgment and decree dated 30.05.2017 dismissed the suit. Plaintiff remained unsuccessful in the lower Appellate Court and his appeal was rejected by the learned Additional District Judge, Mansa, by judgment dated 05.10.2019, resulting in the institution of the present appeal.

6. Counsel for the appellant has argued that being the eldest male child of the deceased, he had first right to get appointment on *ex-*



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gratia basis. He submits that the appellant had performed the last rites of the deceased and had borne the expenses.

7. I have carefully considered the submissions made by counsel for the appellant.

8. Ram Kali was working as a Safai Sewak with defendant No.2 who expired in harness on 29.01.2014. She was survived by the plaintiff-appellant and defendants-respondents No.3 to 8. Appellant and respondents No. 4 and 5 are her sons whereas respondents No. 6 to 8 are her married daughters. It is apparent that the claim of the appellant has been resisted by his family members, who have produced a publication dated 01.09.2015 in the newspaper '*Aj Di Awaaj*' to show that the appellant had been disinherited by his father. There was litigation pending between the appellant and his father regarding a residential house and the appellant was separate in residence from his father and siblings. Although the appellant had performed the last rites of his mother and had borne burden of expenses but he could not produce any material to show that he was taking care of the other blood relations. The purpose of providing compassionate appointment is to provide financial succour to the family on account of sudden demise of the sole bread winner. In case, the appellant is offered employment, the objective of the scheme would stand defeated. Moreover, plaintiff –appellant has not led any evidence to show that he possesses the requisite qualification for being appointed on Group 'D' service in terms of the notification



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dated 21.11.2002 issued by the Government of Punjab which provides for the Scheme for Compassionate Appointment, 2002. There is no illegality of infirmity in the judgments passed by the courts below, which are affirmed.

- 9. Appeal being devoid of merits is dismissed with no order as to costs.
- 10. Pending application(s), if any, is/are disposed of.

25.07.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No