



RSA-2745-2019(O&M)

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

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RSA-2745-2019 (O&M)
Date of decision: 13.08.2024

Govt. of India through Secretary, Department
of Posts (Recruitment Division) and others

... Appellants

Vs.

Rohit

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Chander Mohan Sharma, Senior Panel Counsel
for the appellants.

Mr. M.S. Rana, Advocate for the respondent.

SUVIR SEHGAL J. (ORAL)

1. Plaintiffs-appellants are in second appeal before this Court challenging the concurrent finding recorded by both the courts below.
2. Pleaded case of plaintiff-respondent is that he was an applicant for the post of Postal Assistant (Post Office) and after clearing the aptitude and typing test, he was issued an appointment letter dated 21.10.2014, however, he was not permitted to join, whereas, his batchmates who were selected, joined the service. Upon inquiry, he came to know that his signatures and photograph on the



admit card were different from those on the online application form. Pleading that there was a mix up with another candidate, a technical mistake had occurred, he requested the appellants for rectification. After issuing a legal notice, he filed a suit for declaration.

3. Upon notice, defendant appeared and contested the suit by filing a written statement. An objection was taken that suit is not maintainable as all the service matters are to be dealt with by the Central Administrative Tribunal, under Section 14 of the Administrative Tribunals Act, 1985. On merits, it was submitted that during scrutiny, it was found that there was a discrepancy in the photograph and signatures of the plaintiff. A reference has also been made to e-mail dated 02.03.2015 whereby, instructions were issued that no change is permitted after the registration of candidates. A stand was taken that plaintiff had given a wrong declaration that all the particulars are correct. Plaintiff filed a replication to the written statement controverting the stand taken by the defendants. Issues were framed on the basis of the pleadings of the parties, who led evidence in support of their respective case. After the parties were heard, Trial Court by judgment dated 02.11.2017, decreed the suit. Defendants filed an appeal before the First Appellate Court, which was rejected by the learned District Judge, Rohtak, by judgment dated 10.01.2019, resulting in the institution of the present appeal.

4. Mr. Sharma, counsel for the appellants has argued that the plaintiff was seeking appointment to the Postal Services and the



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jurisdiction of the Civil Court was barred. He submits that despite an objection by the appellants, the Court has tried and decreed the suit.

5. On the other hand, counsel for the respondent by placing reliance upon the judgment passed by the Supreme Court in **Ujagar Singh (Dead) thr. Lrs and another versus Punjab State and others, 2024(3) RCR (Civil) 540** and by this Court in **Hoshiar Kaur Vs. Surjit Kaur 2001(3) RCR (Civil) 796**, submits that as the defendants did not press the issue of jurisdiction, they cannot take the plea of lack of jurisdiction during the hearing of the second appeal.

6. I have heard counsel for the parties and considered their respective submissions.

7. A perusal of the copy of the pleadings supplied by the counsel for the respondent show that a specific objection was taken by the defendant to the effect that the jurisdiction of the Civil Court is barred in as much as the jurisdiction is vested with the Central Administrative Tribunal. A specific issue (issue No.2) was framed by the trial Court to the effect whether the suit is maintainable in the present form. Although during course of arguments, counsel for the defendant did not press this issue before the Trial Court, but in the first appeal before the learned District Judge, counsel for the appellant had expressly argued on the issue of jurisdiction, but the Appellate Court did not entertain this plea on the ground that no specific issue has been framed. This finding of the learned First Appellate Court is clearly incorrect. First Appellate Court has also gone into the merits



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and dismissed the suit, but as the question of jurisdiction is a question which goes to the root of the case, and in the absence of any finding thereon, the findings recorded by the Appellate Court on merits, cannot be sustained. The judgment passed by the learned First Appellate Court is liable to be reversed and the matter deserves to be reconsidered by afresh.

8. Accordingly, while setting aside the judgment dated 10.01.2019, passed by the learned District Judge, matter is remitted to it to decide it afresh after hearing counsel for the parties. Appeal is disposed of.

9. Parties are directed to appear before the learned District Judge, Rohtak on 18.09.2024.

10. Learned District Judge, Rohtak may hear the appeal himself or assign it to any other Court of competent jurisdiction.

13.08.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

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