

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

218

RSA-6708-2016 (O&M)
Decided on : 02.05.2024

Rajinder ParsadAppellant

Versus

Haryana State through Collector, Hisar and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : None for the appellant.

Mr. Ravi Dutt Sharma, D.A.G., Haryana.

NAMIT KUMAR, J. (Oral)

1. In pursuance to the order dated 15.02.2024, Transport Commissioner, Haryana, Chandigarh is present in the Court.
2. That instant regular second appeal has been preferred by the appellant/plaintiff impugning the judgment and decree dated 03.02.2016, passed by learned Civil Judge (Junior Division), Hisar, whereby the suit for injunction filed by the appellant/plaintiff was dismissed and the judgment and decree dated 02.05.2016 passed by learned Additional District Judge, Hisar, whereby the appeal preferred by the appellant/plaintiff against judgment and decree dated 03.02.2016 was also dismissed. Parties to the lis are hereinafter shall be referred to by their original position before the trial Court.
2. The appellant/plaintiff filed a suit for mandatory injunction restraining the defendants to retire him from the service and to examine

RSA-6708-2016 (O&M)

2

him from a Medical Board of P.G.I.M.S., Rohtak, so that he may take benefits, as per the policy of Government.

3. Having lost before both the Courts below, the instant regular second appeal has been preferred.

4. While issuing notice of motion on 22.02.2018, the following order was passed :-

“Notice of motion.

On the asking of the court, Mr. Rohit Arya, AAG, Haryana accepts notice on behalf of the official respondents.

Learned counsel for the appellant is directed to furnish 3 sets of paper-book to learned State counsel during the course of the day.

Short question for consideration in the present appeal is whether appellant is entitled to extension of service from 58 years to 60 years with reference to his disability read with Government instructions dated 21.04.2008. Learned counsel for the appellant submitted that on 21.05.2014 he had submitted necessary application to the competent authority to forward his application for the purpose of obtaining disability certificate with the medical board before his retirement i.e. 31.11.2014. Concerned respondent has failed to obtain medical certificate to the extent that 70% disability of the appellant. The concerned respondent is hereby directed to file short affidavit as to what action has been taken by the competent authority in view of the appellant's application dated 21.05.2014 whether it has been sent to Medical Board? If it is so what action has been taken before 31.11.2014 be made known in the affidavit.

List this matter on 17.05.2018.”

5. The learned State counsel submits that the appellant has unfortunately died on 31.12.2021 and placed on record a copy of his death certificate, which is taken on record.
6. Short reply by way of an affidavit of Mangal Sain, HCS, General Manager, Haryana Roadways, Hisar, on behalf of the respondents, has been filed in the Registry which is taken on record. In the said reply, it has been stated as under :-

“xx xx xx xx xx

3. *That the appellant submitted an application dated 21.05.2014, wherein he requested to refer his case to the Medical Board for issuance of medical certificate to the extent of 70% disability of the appellant.*

4. *That the answering respondents vide memo No.1420/ECM dated 04.06.2014 requested the appellant to obtain certificate of 70% disability from P.G.I.M.S. Rohtak (Copy of letter annexed as **annexure R-1**) so that his case regarding extension of service would be forwarded to the competent authority for taking decision. The appellant neither appeared before the said medical board for issuance of necessary disability certificate nor submitted any disability certificate showing that he is suffering from 70% or more disability. Therefore, he was not granted two year extension in service as per Govt. notification dated 21.04.2008 (Copy of Govt. notification annexed as **annexure R-2**).*

xx xx xx xx xx”

7. No one had put in appearance on behalf of the appellant on the last date of hearing i.e. 15.02.2024. Even today also there is no

RSA-6708-2016 (O&M) 4

representation on behalf of the appellant and his LR's have also not been brought on record.

8. Since neither the appellant appeared before the Medical Board for issuance of necessary disability certificate nor submitted any disability certificate to the authorities showing that he is suffering from 70% or more disability, in terms of memo dated 04.06.2014, therefore, he was not granted two years extension of service in terms of notification dated 21.04.2008. Moreso, he has unfortunately expired on 31.12.2021 on attaining the age of 65 years.

9. In this view of the matter, finding no merit in the instant appeal, the same is hereby dismissed.

10. Pending application, if any, shall stand disposed of accordingly.

02.05.2024 (NAMIT KUMAR)
Kothiyal JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No