

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

RSA-495-2019 (O&M)
Date of Decision :08.02.2024

R.S. Saxena

...Appellant

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Punchhi, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present regular second appeal, challenge is to judgment and decree dated 19.11.2015 passed by the trial Court by which, the suit filed by the appellant-plaintiff was dismissed as well as judgment and decree dated 29.05.2018 passed by the lower Appellate Court by which judgment and decree of the trial Court has been upheld.

2. Learned counsel for the appellant argues that the evidence which has come on record should be reappreciated as the findings recorded by the trial Court, which findings have been upheld by the lower Appellate Court are contrary to the facts and evidence on record. Learned counsel for the appellant submits that the findings recorded by the trial Court as well as lower Appellate Court dated 19.11.2015 and 29.05.2018 respectively that the request made by the appellant for the grant of LTC for the block year 2008-2011 on 21.12.2011 was received after the last date and the same was

time barred, is incorrect. Learned counsel for the appellant argues that the said request was made on 21.12.2011, which was within time frame prescribed but the same has been treated time barred not only by the respondent-department but even by the Courts below without appreciating the evidence on record.

3. From the pleadings as well as evidence, it has come on record that the application which has been submitted by the appellant is only dated 21.12.2011 whereas, as per the record of the department including the noting made on the said application reflects that the same was received only on 31.12.2012. In the register, which has been produced before the Court below, the entry for receipt of the said application is shown to have been made on 01.02.2013. The said record has not been rebutted in any manner by the appellant/plaintiff.

4. Learned counsel for the appellant submits that DW-1 has mentioned in his statement that the application was received within time frame but the said statement has wrongly been considered by the Courts below to mean that same cannot be accepted in view of the register being maintained by the department which has been brought on record wherein, the said application was shown to have been received on 01.02.2013.

5. It may be noticed that said finding has been recorded by the Courts below on the basis of the document/record which has come in evidence on record. Learned counsel for the appellant is now requesting to re-appreciate the evidence in the present regular second appeal, which is not permissible and only the perversity, if any, in the findings so recorded by the Courts below on the basis of the evidence which has come on record is to be argued. In the present regular second appeal, no perversity in the

findings recorded by the Courts below has been pointed out by the learned counsel for the appellant hence, no ground for interference by this Court is made out and the present regular second appeal is accordingly dismissed.

6. Civil miscellaneous application pending, if any is also disposed of.

February 08, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No