



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order: 3rd April, 2024**

+ **RFA 85/2020**

NISHA RANGRA Appellant

Through: **Mr. Vinay Gupta, Advocate**

versus

PNB METLIFE INDIA INSURANCE CO LTD & ANR

..... Respondents

Through: **Ms. Shweta Singh Parihar, Advocate**
(Through VC)

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant appeal has been filed by the appellant under Section 96 read with Order XLI of the Code of Civil Procedure, 1908 (hereinafter “CPC”) seeking the following reliefs:

“(i) to admit and allow the present Appeal.

(ii) To summon the Trial Court records from the Hon'ble Court of Ms. Ravinder Bedi, Ld. ADJ-04, Patiala House, New Delhi in respect of aforesaid suit case, titled Ms. Nisha Rangra Vs. PNB Metlife India Insurance Co. Ltd and Anr., bearing CS NO. 5582/2016 which is decided by way of Impugned Judgment/Decree dated 02.09.2019.

(iii) To set aside the Impugned Final Judgment & Decree dated 02.09.2019 passed in CS No. 5582 of 2016 by the Court of Ms. Ravinder Bedi, Ld. ADJ-04; Patiala House, New Delhi, in the



Suit Title: Ms. Nisha Rangra Vs. PNB Metlife India Insurance Co. Limited and Anr. And correspondingly to direct for the revival/restoration of the said suit proceedings in the said Ld. Trial Court for hearing and rendering of decision afresh after granting one more opportunity to the Appellant/Plaintiff to tender her Affidavit of Evidence in support of her original Suit claim.

(iv) To pass any other & further Order and Direction(s), which this Hon'ble Court may deem fit and proper given the facts and circumstances of the matter in her favour."

2. The appellant/Nisha Rangra joined the respondent/PNB Metlife India Insurance Co. Ltd. as Sales Manager at their New Delhi office in July, 2008. The appellant remained in the employment of the respondent company.

3. On 1st May, 2015, the appellant's services were terminated by the respondent. Aggrieved by the termination of her services, the appellant/plaintiff filed a civil suit bearing no. CS no. 5582/2016 against the respondents/defendants before the learned Trial Court, Patiala House, New Delhi for recovery of damages and compensation in the sum of Rs. 1,50,00,000/- and *inter alia* also sought for reinstatement and declaration that her termination is illegal.

4. In the above said suit, the learned Trial Court issued summons to the respondents and accordingly, the respondent appeared and filed its written statement. Pursuant to which the appellant filed her replication on 7th October, 2016.



5. Subsequently the matter was listed for admission and denial of documents as well as for framing of issues. The learned Trial Court framed issues on 15th March, 2018.

6. Thereafter, the suit was listed for plaintiff's evidence for 9th August, 2018, on which date the learned counsel for the appellant sought adjournment on the ground that since the appellant was living in United Kingdom, she was unable to come to India. The adjournment was also sought on various other dates by the learned counsel for appellant and the same was duly granted by the learned Trial Court.

7. Vide the judgment dated 2nd September, 2019, the learned Trial Court dismissed the above said suit observing to the effect that despite opportunities granted the appellant, she did not lead any evidence in support of her pleadings.

8. Being aggrieved by the impugned judgment/final order/decreed dated 2nd September, 2019, the appellant has filed the instant regular first appeal.

9. Learned counsel for the appellant submitted that the impugned judgment is unjust, illegal, and oppressive as well as the appellant suffered irreparable loss and injury, which is not compensable in any terms if the impugned judgment is not set aside.

10. It is submitted that the learned Trial Court neglected to duly consider the difficult, constrained, and distressing situation faced by the appellant due to which she could not come to India for tendering evidence.



11. It is further submitted that the learned Trial Court failed to recognize that in the absence of a visa, the appellant could not have travelled to India for the purpose of giving evidence.

12. It is submitted that the learned Trial Court failed to recognize that the appellant has no source of income in the U.K. and despite being dependent on her parents for financial support she was fully prepared and willing to pay the cost of Rs. 25,000/- on 2nd September, 2019 as directed by the learned Trial Court. However, the appellant could not pay the same due to passing of the impugned judgment by the learned Trial Court which resulted in the dismissal of her suit.

13. It is submitted that the learned Trial Court failed to appreciate that the appellant had already made all necessary arrangements to travel to India for the period from 21st August, 2019 to 5th September, 2019 specifically for the purpose of appearing in the civil suit proceedings and for tendering her evidence. Furthermore, the appellant had finalized her evidence to be tendered on 2nd September, 2019 and an advance copy of the evidence was served upon the learned Counsel for the respondents as well.

14. It is submitted that the learned Trial Court failed to recognize that all documentary evidence supporting the aforementioned submissions of the appellant had been duly filed before the learned Trial Court on 2nd September, 2019 itself. However, the learned Court erroneously discarded the same, thereby, neglecting crucial evidence in the proceedings.



15. In view of the aforesaid submissions, learned counsel for the appellant submitted that the instant appeal be allowed and the relief as sought may be granted.

16. *Per contra*, learned counsel for the respondents vehemently opposed the averments advanced by the appellant and submitted that the appellant's termination was done in accordance with her employment contract and the company's policies through the issuance of a termination letter dated 1st May, 2015.

17. It is submitted that the appellant lacks any vested or inherent entitlement to the continuation of her services with the respondents, especially in light of the terms and conditions outlined in her appointment letter as well as mutually agreed upon by both the parties.

18. It is further submitted that despite various deficiencies and negligence in performance of the appellant, the respondent company issued a notice on 1st May, 2015 terminating the appellant's services with immediate effect and settled her final dues in accordance with the company policy.

19. It is submitted that the impugned judgment does not suffer from infirmity or illegality since the appellant herself failed to appear before the learned Trial Court during the pendency of the suit as well as tender evidence as mandated.

20. In view of the aforesaid submissions, the learned counsel for the respondents submitted that the instant appeal is without any merit and may be dismissed.



21. The matter was heard at length with arguments advanced by the learned counsel for the parties. This Court has also perused the entire material on record and has duly considered the factual scenario of the matter, judicial pronouncements relied upon by the parties, and pleadings presented by the learned counsel of the parties.

22. It is the case of the appellant that the learned Trial Court passed the impugned judgment by completely disregarding the distressing circumstances of the appellant due to which she could not come to India and tender her evidence.

23. In rival submissions, the respondents submitted that the learned Trial Court granted several opportunities to the appellant to bring on record the evidence in support of her pleadings. It is further submitted that the impugned judgment rightly closed the evidence of the appellant as well as dismissed the suit on the ground that there is no evidence filed by the appellant in support of her pleadings.

24. Therefore, the question which falls for the consideration of this Court is whether the learned Trial Court has correctly dismissed the civil suit on the ground that despite several opportunities granted to the appellant, she did not file on record any evidence in support of her pleadings, hence, she is not entitled to any reliefs, as prayed for.

25. Now this Court will advert to perusing the impugned judgment and the relevant portion of the same is reproduced herein below:

"..Proxy counsel for plaintiff seeks yet another adjournment.



He states that the plaintiff is unable to come to India. He states that the plaintiff was a victim of domestic violence by her in-laws in United Kingdom. He states that the plaintiff was granted entry clearance as partner/wife of PBS Dependant. Ld. counsel states that it is not possible for plaintiff owing to circumstances as her marriage has broken down permanently due to domestic violence at the hands of her husband and in-laws. Requisite documents in support of this are filed today along with unsigned affidavit.

The adjournment is opposed with vehemence by Ld. counsel for defendants, who has taken me through the earlier proceedings sheets.

Heard.

After the issues were settled on 15.03.2018, matter was posted for evidence of plaintiff. Since then the adjournment is sought on one ground or the other on behalf of plaintiff. By order dated 02.05.2019 plaintiff was burdened with costs of Rs. 25,000/-. Costs have remained unpaid. In such circumstances I do not deem it proper to adjourn the matter any further for evidence in the absence of any plausible reason forwarded. The plaintiff's evidence is hereby closed by order.

In view of the fact that plaintiff has not led any evidence. Ld. counsel for defendants also requests for closure of evidence of defendants. The evidence of the defendants stands closed.

The present suit is for recovery of damages and compensation of Rs.1.5 crores besides declaration filed by the plaintiff against defendants wherein she alleged to have been removed from services without affording opportunity of being heard or to show cause. The plaintiff alleged she was served termination letter dated 01.05.2015 in illegal manner. Despite many



reminders and representations, she alleged no response was received from defendants. She sought a relief of declaration of getting the termination letter dated 01.05.2015 as null and void besides claiming damages for harassment, humiliation and torture upon her. This court observes that despite opportunities granted plaintiff has not brought forth any evidence in support of her pleadings, she is not entitled for the relief prayed for. Plaintiff has clearly failed to prove the allegations by producing any evidence in support thereof. The suit of the plaintiff in such circumstances stands dismissed. Decree sheet be prepared accordingly...”

26. Upon perusal of the impugned judgment, it is evident that the proxy counsel appearing on behalf of the appellant sought adjournment from the learned Trial Court on the ground that the appellant is not able to come from the United Kingdom to India since she was a victim of domestic violence as well as she was granted entry in the United Kingdom as a wife hence, due to the breakdown of her marriage, she is at the whims and fancies of her husband and in-laws. The learned counsel for the respondents vehemently opposed the same.

27. The learned Trial Court held that on 15th March 2018, the matter was put up for evidence of appellant and since then the appellant sought adjournment. Furthermore, the order of the learned Trial Court which directed the appellant to pay cost of Rs. 25,000/- was not complied with. Hence, the learned Court opined that it does not deem it proper to adjourn the matter yet again and accordingly, the appellant's evidence was closed. During the course of the proceedings, the learned counsel for the respondents pleaded before the learned Trial Court that its evidence may



also be closed in light of the fact that the appellant had not led any evidence, and consequently the respondent's evidence was also closed.

28. Conclusively, the learned Trial Court held that the appellant was given various opportunities to place on record evidence in support of her pleadings, however, the appellant failed to prove the averments in her pleadings by not producing any evidence in support thereof. Accordingly, the appellant's evidence was closed and since no evidence was produced by the appellant, the respondent also did not produce any evidence on record.

29. Therefore, nothing was left for adjudication in the matter, accordingly; the learned Trial Court in light of the aforesaid circumstances dismissed the appellant's civil suit.

30. Before adjudicating upon the impugned judgment, this Court shall peruse the various daily order sheets to ascertain the fact whether the learned Trial Court had granted several opportunities to the appellant for placing on record evidence in support of her pleading.

31. The orders of the learned Trial Court are date-wise reproduced herein below:

a. 9th March, 2017:

“Adjournment sought on the ground that original documents have not been brought by the parties for the admission-denial. At request, matter is adjourned for admission-denial of documents and framing of issues on 11-4-2017. Parties are directed to bring their original documents and file affidavit regarding the admission-denial of the documents.”

b. 11th April, 2017:



*“It is submitted on behalf of the Ld. Counsel for the defendant there are no original documents filed on behalf of the plaintiff for admission-denial. On the other hand it is submitted by the Ld. Counsel for the plaintiff that they are not filing any document for admission-denial.
Put up for framing of issues on 11.07.2017.”*

c. 11th July, 2017 :

“As per directions of Ld. PO Put up on 15.09.2017 for purpose fixed/further proceedings.”

d. 15th September, 2017:

“As per directions of Ld. PO Put up on 01.12.2017 for purpose fixed/further proceedings.”

e. 1st December, 2017:

“As per directions of Ld. PO. put up on 15.03.2018 for purpose fixed / further proceedings.”

f. 15th March, 2018:

“Pleadings are complete. From the pleadings of the parties following issues are framed:

- 1. Whether termination letter dated 01.05.2015 issued by defendant to the plaintiff is a nullity and bad in law and requires to be declared as void ab-initio ? OPP*
- 2. Whether employment of plaintiff was legally and validly terminated by the defendant vide termination letter dated 01.05.2015 ? OPD-1.*
- 3. Whether the plaintiff is entitled for reinstatement, without break in service in the defendant company, alongwith all consequential benefits thereto, including back*



wages, increments, promotion and continuity in service etc ?
OPP.

4. *Whether the suit is without cause of action ? OPD-1.*

5. *Whether the suit is barred by Law under The Specific Relief Act ? OPD-1.*

6. *Whether the suit is based on any false or incorrect statement and/or material suppression of facts etc ? OPD-1.*

7. *Whether the suit is bad for mis-joinder of parties ? OPD-1.*

8. *Relief?*

No other issue arose or pressed for. Plaintiff is directed to file the list of witnesses and evidence by way of affidavit within 15 days with advance copy to the opposite side. Put up for tendering of evidentiary affidavit and cross examination on 09.08.2018.”

g. 9th August, 2018:

“At the request of Ld. Counsel for the plaintiff, one more opportunity is given to the plaintiff to lead PE. Plaintiff is directed to comply the previous order and supply advance copy of affidavit to the opposite counsel.

At the request of plaintiff, put up for PE on 10.12.2018.”

h. 10th December, 2018:

“Ld. Counsel for plaintiff has submitted that plaintiff is out of country and is unable to appear in court due to some inevitable circumstances. He seeks adjournment. Heard. One last opportunity is given to the plaintiff to examine herself.

Ld. Counsel for defendants has opposed to adjournment.

Plaintiff is directed to comply order dated 15.03.2018.

Put up for PE 02.05.2019.”

i. 2nd May, 2019:



“Again adjournment sought on behalf of proxy counsel for plaintiff stating that PW1 is not available for examination. No good ground shown for adjournment.

Matter is pending for evidence of plaintiff since 15.03.2018. However, as last and final opportunity plaintiff is directed to adduce entire evidence subject to cost of Rs.25000/(Rs.15000/ to DSLSA and Rs.10,000/ to New Delhi Bar Association Library Fund).

Relist the matter for entire PE on 02.09.2019. Copies of affidavits of the witnesses, if any be supplied to other side one month prior to next date of hearing to facilitate cross examination...”

32. Upon perusal of the various daily orders of the learned Trial Court, it is crystal clear that the learned Court below had granted several opportunities to the appellant to produce the evidence in support of the averments made by the appellant in her pleadings, however, she failed to produce any evidence as per the learned Court’s instructions.

33. Under the CPC, it is mandated that the documents shall be produced by the plaintiff on which he/she is relying upon. Order VII Rule 14 of the CPC deals with the same and is reproduced herein below:

“..14. Production of document on which plaintiff sues or relies.—

(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.



(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit...”

34. The aforesaid provision elucidate that in a civil suit, the documents which the plaintiff sues upon or relies upon and are in his possession, he shall make list of such documents and produce it in Court when the plaint is presented by him. Moreover, the said documents shall be delivered at the same time as well as a copy thereof, to be filed with the plaint.

35. This Court is of the view that the learned Trial Court has correctly held that the appellant was bound to produce original documents on record since the same is mandated under CPC as per the aforesaid discussion.

36. In view of the aforesaid discussion, this Court is of the considered view that the appellant sought adjournment for more than a year thereby, stalling the trial of the civil suit. The learned Trial Court had given indulgence to the appellant on various dates despite which the appellant did not appear before the Court for tendering evidence.

37. Accordingly, since there was no evidence on record to substantiate the averments averred by the appellant in her pleadings and in light of the fact that no evidence was produced on record by the appellant, the respondent also did not file any evidence and consequently the respondent's evidence was also closed. Therefore, the learned Trial Court rightly dismissed the suit since, nothing was left for adjudication.



2024:DHC:2650



38. This Court finds no infirmity in the impugned judgment dated 2nd September 2019 passed by ADJ-04, Patiala House, New Delhi in the civil suit bearing CS NO. 5582/2016 titled *Ms. Nisha Rangra Vs. PNB Metlife India Insurance Co. Ltd and Anr.*, thereby the impugned judgment is upheld.

39. According the instant appeal is dismissed alongwith pending applications, if any.

40. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

APRIL 3, 2024
gs/db/ryp

Click here to check corrigendum, if any