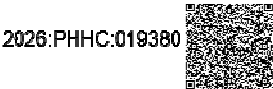


RSA-2541 of 1996 (O&M)



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-2541 of 1996 (O&M)

Haryana State Minor Irrigation Tubewell Corporation Ltd. and another
.....Appellants

Versus

O.P. Grover and another
.....Respondents

Sr. No.	Particulars	Details
1.	The date when the judgment is reserved	02.02.2026
2.	The date when the judgment is pronounced	09. 02.2026
3.	The date when the judgment is uploaded on the website	09.02.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Rajesh Gaur, Advocate,
for the appellants.

Mr. Virender Kumar, Advocate,
for respondent No.1.

Mr. Priyavrat Parashar, AAG, Haryana.

NAMIT KUMAR, J.

1. This Regular Second Appeal is directed against the judgment and decree dated 30.03.1996, passed by learned Additional District Judge, Karnal, vide which the suit of respondent No.1-plaintiff for declaration and mandatory injunction has been decreed and finding of the trial Court *qua* dismissing the suit of respondent No.1 on the point of limitation, vide judgment and decree dated 28.02.1995, has been set aside.



2. For convenience sake, reference to the parties is being made as per their status in the civil suit. Briefly stated, plaintiff filed a suit for declaration to the effect that he is entitled to get the benefit of military service as rendered by him from 26.10.1962 to 10.01.1968 towards increment, seniority and pension from the date of his appointment with defendant No.1, with a further prayer for issuing mandatory injunction to the defendants to give him the abovesaid benefits and to make the payment of arrears of increment along with interest thereon @ 18% per annum. It was pleaded that the plaintiff was enrolled in the Indian Air Force on 21.01.1963 on account of the call of the nation at the critical juncture of National Emergency. The emergency was declared on 26.10.1962 and was lifted on 10.01.1968 by the proclamation of the President of India. The benefit of military service were promised to such persons who heeded to this call. Plaintiff rendered active service in Indian Air Force during this period and was discharged on 01.02.1978. After his release from Indian Air Force, plaintiff was appointed as Junior Engineer in defendant No.1-Corporation through Employment Exchange, Karnal, vide letter dated 17.02.1979. It was further pleaded that at the time of his appointment, plaintiff did not avail any concession under Rules, 3, 4 and 5 of the Punjab National Emergency (Concession), Rules 1965, as adopted by the Government of Haryana, vide notification in 1976. With his appointment with defendant No.1, plaintiff became entitled to get the benefit of his previous service in the Indian Air Force towards increments, seniority and pension as per the abovementioned



notification. Despite several representations, the benefit of the service rendered by him during emergency period was not given to him. Thereafter, the plaintiff served a notice under Section 80 CPC upon the defendants in this regard on 13.04.1992, however, the claim of the plaintiff was rejected by defendant No.2, vide letter dated 15.05.1992.

3. The suit was contested by the defendants. In their written statement, defendants pleaded that plaintiff had no *locus standi* and cause of action to file the suit and the same was not maintainable. It was admitted that the plaintiff was appointed vide letter dated 11.01.1979 and he joined the service in the Corporation on 22.03.1979. At the time of joining the defendant-Corporation, the plaintiff had submitted an affidavit and accepted the offer for appointment as per the terms and conditions as mentioned in the letter of appointment. It was further submitted that the plaintiff had accepted a fresh appointment without raising any objection, therefore, he was estopped from claiming the benefit of military service.

4. Plaintiff filed replication and reiterated his stand taken in the plaint and controverted the assertions of the defendants taken in their written statement.

5. From the pleadings of the parties, following issues were framed by the trial Court vide order dated 20.12.1993: -

“1. *Whether the plaintiff is entitled to the benefit of military service rendered from 26.10.1962 to 10.01.1968 towards his increment, seniority and pension? OPP*



2. *If issue No.1 is proved, whether the plaintiff is entitled to recover the arrears with interest @ 18% p.a.? OPP*
 3. *Whether the plaintiff has got no locus standi? OPD*
 4. *Whether the suit is not maintainable in the present form? OPD*
 5. *Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD*
 6. *Whether the plaintiff has got no cause of action? OPD*
 7. *Relief.”*
6. The trial Court after hearing learned counsel for the parties and appreciating the evidence on record, decided issue No.1 in favour of plaintiff No.1 and held that the plaintiff is entitled for the benefit of military service as rendered by him during the emergency period for the purpose of increment, seniority and pension. However, the suit of the plaintiff was dismissed on the ground of limitation by learned Additional Senior Sub Judge, Karnal, vide judgment and decree dated 28.02.1995. Aggrieved against the judgment and decree of the trial Court, plaintiff preferred an appeal, which has been allowed and the finding of the trial Court *qua* dismissing the suit on the point of limitation was set aside by the Court of learned Additional District Judge, Karnal, vide judgment and decree dated 30.03.1996. Hence, the instant regular second appeal has been filed by defendants No.1 and 2.
7. Learned counsel for the appellants contended that the first appellate Court committed error in reversing the finding of the trial Court with regard to limitation of the claim raised by respondent No.1.

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He further contended that the cause of action arose to respondent No.1 on 07.10.1980, when his claim was rejected by the competent authority and not from the date on which the reply to notice under Section 80 CPC was given by the appellants. He further contended that respondent No.1 filed suit on 17.08.1992 i.e. after about 12 years from the date of cause of action, which was rightly dismissed by the trial Court. He further contended that the judgment and decree of the first appellate Court, which is the result of misreading of evidence is liable to be set aside and that of the trial Court be restored.

8. On the other hand, learned counsel for respondent No.1 contended that the suit of respondent No.1 has rightly been decreed by the first appellate Court by setting aside the finding of the trial Court qua limitation as order dated 07.10.1980, rejecting the claim of the plaintiff for counting his service rendered with the Indian Air Force, was never conveyed to respondent No.1.

9. I have heard learned counsel for the parties and perused the record.

10. The question of law, which arises for consideration in the present appeal is “*whether the suit of respondent No.1-plaintiff was within limitation and whether the respondent-plaintiff is entitled to benefit of military service rendered by him?*”

11. Admittedly, respondent No.1-plaintiff joined the Indian Air Force on 21.01.1963 on account of the call of the nation at the critical juncture of National Emergency, which was declared on 26.10.1962 and was lifted on 10.01.1968 by the proclamation of the

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President of India. Respondent No.1-plaintiff was discharged from the service of Indian Air Force on 01.02.1978. After his discharge from the service of Indian Air Force, respondent No.1-plaintiff joined the appellants-Haryana State Minor Irrigation (Tubewell) Corporation Limited, Chandigarh, as Sectional Officer (Mechanical) on 17.02.1979, as per appointment letter (Ex.P-1). Respondent No.1-plaintiff thereafter approached the appellants claiming the benefit of the military service rendered by him from 26.10.1962 to 10.01.1968 for the purpose of increments, seniority and pension. The trial Court held that respondent No.1 was entitled for the benefits of service rendered by him during the emergency period for the purpose of increment, seniority and pension but wrongly dismissed the suit on the ground of limitation by taking into consideration that the cause of action accrued to him on 07.10.1980 i.e. the date on which the appellants rejected his claim for counting his service rendered with the Indian Air Force. However, a perusal of the record reveals that the letter dated 07.10.1980 (Ex.D3) was never served upon respondent No.1. The appellants failed to prove on record that the said letter was ever served upon respondent No.1 so as to establish that the cause of action to file suit for declaration accrued to respondent No.1 on 07.10.1980. The first appellate Court has rightly held that the cause of action to respondent No.1 accrued on 15.05.1992 i.e. the date of reply (Ex.P4) sent by the appellants to the notice served by respondent No.1 upon the appellants under Section 80 CPC, rejecting his claim for benefits of service rendered by him in the Indian Air Force. Thereafter,

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respondent No.1-plaintiff instituted the suit for declaration on 17.08.1992, which was well within the period of limitation. So far as the finding of the trial Court holding respondent No.1 entitled to the benefits of military service is concerned, no appeal or cross-objection were filed by the appellants before the first appellate Court and even the said finding has also been affirmed by the first appellate Court. Further, nothing has been shown as to why respondent No.1 is not entitled to the benefit of military service.

12. Consequently, the question of law framed above, is answered in favour of respondent No.1-plaintiff and against the appellants.

13. Accordingly, the instant Regular Second Appeal is dismissed and judgment and decree passed by the learned first appellate Court is upheld.

14. Pending application(s), if any, shall also stand disposed of.

09.02.2026
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No