

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

S.A.No.436 of 2015

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JUDGMENT:

Heard.

The present appeal is filed by the plaintiff in O.S.No.296 of 2003 on the file of the Additional Senior Civil Judge, Chittoor. The said suit was filed seeking recovery of Rs.2,61,393.50 ps. It was stated that the plaintiff, who worked as Social Education Organizer, had retired from service on 31-03-1987 and she raised a claim with regard to earned leave period from 19-05-1962 extended upto 08-04-1966. She claimed that when she requested for posting order, after 08-04-1966, there was prolonged delay in correspondence resulting in denial of posting and thereby her service benefits and other benefits were also denied on her retirement. The original plaintiff died on 25-10-2001 and her husband was impleaded as her legal representative and prosecuted the suit and the appeal. The trial court, on consideration of evidence, found under judgment and decree, dated 07-07-2008 that the plaintiff is not entitled to interest, which she is seeking but she is entitled to simple interest on part of the suit claim towards arrears of pay and other amounts. Thereby, the suit of the plaintiff was decreed in part by granting part claim with simple interest. Aggrieved thereby, the plaintiff filed A.S.No.71 of 2008 to the extent of denial of interest and the defendants filed Cross Appeal No.1 of 2009. The lower appellate court has considered the entire matter afresh and on finding at paras '29' and '30' held that the plaintiff was on earned leave for nearly 4 years and that the delay resulted in complications but ultimately, the entire matter was settled by awarding her substantial amounts as decreed by the trial court with simple interest. The calculation made by the plaintiff on the ground that she is entitled to compound interest, however, was found neither justifiable nor permissible. Accordingly, the appeal and the cross appeal were

dismissed and the present Second Appeal is filed by the plaintiff against the said common judgment.

After hearing the learned counsel for the appellant, I am unable to see any substantial question of law arising in the matter, which requires consideration inasmuch as the primary claim of the appellant, seeking compound interest is found to be not permissible either on facts or under the Rules besides causing financial burden on the State. The courts below, therefore, were rightly justified in dismissing the suit in part by awarding simple interest.

Since no substantial question of law arises in the matter, the Second Appeal is dismissed at the stage of admission. No costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 17-07-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

S.A.No.436 of 2015

21-07-2015