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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.6912 of 2006 (O&M)

Date of decision: April 08, 2015

Haryana State Electricity Board

.....Petitioner

Versus

B.M. Gupta, Assistant Engineer

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Pardeep Singh Poonia, Advocate
for the petitioner.

Mr. V.K. Jindal, Senior Advocate with
Mr. Akshay Jindal, Advocate
for the respondent.

SABINA, J

Petitioner has filed this petition challenging the order dated 14.11.2006, whereby objections filed by the petitioner, were dismissed.

Respondent joined the petitioner-Board as Assistant Engineer. Respondent was placed under suspension vide order dated 13.08.1981 w.e.f. 13.05.1981, on the ground that he had willfully remained absent from duty. A Departmental enquiry was held against the respondent. Show-cause notice was served on the respondent qua his absence from duty. However, respondent was reinstated in service vide order dated 04.05.1987. Thereafter, a *de-novo* enquiry was ordered to be held against the respondent vide order dated 28.08.1989. Respondent was ordered to be

removed from service vide order dated 27.11.1992 w.e.f. 13.05.1981. Respondent challenged the said order by filing a civil suit. The trial Court dismissed the suit filed by the respondent vide judgment/decreed dated 22.12.2001. However, appeal filed by the respondent against the said judgment/decreed was allowed vide judgment/decreed dated 17.11.2003. The lower Appellate Court decreed the suit as under:-

“It is ordered that the appeal accepted and the suit is decreed, without any order as costs and order Ex-P20 dated 27.11.2992 is set aside. The plaintiff/appellant is held to all consequential benefits i.e. all service benefits. However, he would not be entitled to any interest on the arrears of salary etc. which has become payable to him. The appeal is accordingly accepted.”

Thereafter, petitioner approached this Court by way of RSA No.1465 of 2004. The said appeal was dismissed by this Court vide order dated 08.04.2004. Respondent approached the executing Court for execution of the decree. Petitioner filed objection petition and vide the impugned order, the said objections filed by the petitioner were dismissed. Hence, the present petition.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

The executing Court while dismissing the objections filed by the petitioner, has held as under:-

“After having heard both the counsel for the parties, I have perused the decree dated 17.01.2003 vide which the suit of the decree holder has been decree without any order as to cost and order Ex. P-20 dated 27.11.1992 of the defendant has been set aside. It is further held that the plaintiff/applicant is held to get all the service benefits but without interest on such arrears. But vide order dated 28.01.2005 the judgment debtor has treated the period of suspension i.e. 13.05.1981 to 03.05.1987 as duty period are all intent purposes, whereas the period from 04.05.1987 to 31.05.1998 has been treated as leave of the kind due on the ground that he did not join despite reinstatement order which is absolute contrary to the decree dated 17.01.2003 because as per judgment and decree plaintiff/decreed holder was held entitled for all service benefits but without interest on such arrears. But by the impugned order dated 28.01.2005 judgment debtor has reopened the controversy which has already been settled up to Hon'ble High Court which amounts as contempt of court now. Because if court did not find the decree holder entitled to held all the service benefits, then a court could have treated the period from 4.5.87 to 31.5.98 as leave to kind due. The order dated 28.1.05 of the judgment debtor is nothing but an efforts to sit as an Appellate Authority on the decree dated 17.1.2003. Thus finding no merit in the objection, the same stand dismissed with cost and Judgment debtor is further directed to make the entire payment to the decree holder in compliance of the judgment and decree dated 17.1.2003 within a period of one month.”

The reasons given by the executing Court while

dismissing the objections filed by the petitioner, are sound reasons. Infact, while decreeing the suit of the respondent, the first Appellate Court had set aside the order dated 27.11.1992, whereby respondent was removed from service. It was further held that the respondent would be entitled to all consequential benefits, i.e. all service benefits. However, respondent was not held entitled to receive any interest on the arrears of salary etc. In these circumstances, respondent was entitled to receive the service benefits as if the impugned order has not been passed. The executing Court could not go behind the decree. Therefore, the petitioner-Board could not claim that for certain period, respondent was not entitled to receive service benefits as if the had remained absent from duty.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

April 08, 2015
m.singh