

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

Date of Decision: 16.01.2015

R.S.A. No.1768 of 1997

Punjab State Electricity Board & others ...Appellants

Vs.

Harbans Singh Randhawa ...Respondent

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

Present: Mr. Y.P.Khullar, Advocate, for the appellants.

HEMANT GUPTA, J. (ORAL)

The defendants are in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby suit for declaration that the plaintiff is entitled to the amount of gratuity and other pensionary benefits after retirement on 28.02.1986 was decreed.

The plaintiff-respondent claimed pensionary benefits including gratuity. Such claim of the plaintiff was resisted on the ground that the plaintiff has been given pension of Rs.500/- per month and that gratuity was not given for the reason that an amount of Rs.1,42,752.21 has been adjusted against the amount of gratuity in terms of the order of the Civil Court. Therefore, the plaintiff is not entitled to the amount of gratuity.

The trial Court decreed the suit holding that the certified copies of the judgments of the trial Court as well as the first Appellate Court on the basis of which the amount of Rs.1,42,752.21 has been adjusted against the amount of gratuity, have not been produced on record. Only a photocopy of the judgment

dated 12.05.1992 rendered by the first Appellate Court has been produced on

record as Mark A. The trial Court noticed that in the said judgment, Order No.561 dated 18.06.1985 in respect of recovery of Rs.1,42,752.21 was challenged by the plaintiff. The trial Court also found that there was no claim of payment of pensionary benefits. Such judgment and decree has been affirmed in appeal. Still aggrieved, the defendant is in second appeal, as mentioned above.

Having heard learned counsel for the appellant, I do not find that any substantial question of law arises for consideration of this Court. The defendant has not produced the certified copies of the judgment dated 10.12.1988 and 12.05.1992. The pleadings of the said suit have not been produced to examine the cause of action leading to filing of the said suit. However, a perusal of the photocopy of judgment of the first Appellate Court Mark - A shows that the plaintiff has challenged the recovery of Rs.1,42,752.21. The said suit was dismissed by the trial Court and the appeal was also dismissed. The plaintiff has superannuated on 28.02.1986. Therefore, he is entitled to all pensionary benefits including the gratuity. Such amount can be withheld only after complying with Rule 2.2 of the Punjab Civil Services Rules. Such procedure has not been followed by the defendant. Reference may be made to a Full Bench judgment of this Court in Dr. Ishar Singh Vs. State of Punjab 1993(3) PLR 499.

In view of the above, the present appeal is dismissed, as no substantial question of law arises for consideration.

16.01.2015
Vimal

(HEMANT GUPTA)
JUDGE