IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

RSA No.3698 of 2012 (O&M)
Date of decision: 13.08.2015

Swaran Singh Jandu

….. Appellant

versus

State of Punjab and others

……Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Amit Dhawan, Advocate for the appellant
Mr.T.N.Sarup, Addl.A.G. Punjab for respondent No.1
Mr.D.R.Singla, Advocate for respondent No.2
Mr.Harsh Aggarwal, Advocate for respondent No.3

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Kuldip Singh, J. (Oral)

This is an appeal against the judgment dated 7.5.2012, passed by the learned Additional District Judge, Chandigarh, affirming that of learned Civil Judge, Senior Division, Chandigarh dated 10.4.2009, whereby the suit of the plaintiff for recovery of Rs.1,79,718/- was dismissed with no order as to costs.

Brief facts of the case necessary for the purpose of disposal of the regular second appeal are that previously the plaintiff was working as Sectional Officer in the Department of Town and Country Planning since 17.2.1966. Later on, on the establishment of the Punjab Water Supply and Sewerage Board by an Act of 1976, he applied for the post of Sub Divisional Engineer in the said Board through proper channel and he was appointed in the Punjab Water Supply and Sewerage Board, where he joined on 4.11.1978. The plaintiff claims that amount of General Provident Fund which was deducted by the Punjab State during his service in the Town and Country Planning Department was transferred to the Punjab Water Supply and Sewerage Board. Later on, he was appointed as Sub Divisional Officer vide letter dated 24.9.1993 in Municipal Corporation, Ludhiana by way of transfer from the Punjab Water Supply and Sewerage Board, from where he was retired on 31.5.2001 after attaining the age of superannuation.

The grouse of the plaintiff is that the CPF contribution was collected by the Punjab Water Supply and Sewerage Board for the period he stayed with it. After his transfer in 1993 to the Municipal Corporation, Ludhiana, his CPF was not transferred and the same was transferred only on 13.7.1999 by way of bank draft without payment of any interest from 24.9.1993 till 13.7.1999. Therefore, he claims Rs.1,79,718/- on account of interest for the said period. Defendant - Punjab Water Supply and Sewerage Board denied the liability to pay the interest.

The trial Court while dismissing the suit relied upon the opinion given by the Examiner, Local Funds, Punjab vide letter dated 24.5.2000, wherein it was stated that according to GPF Rule 10(2) read with Rule 17 of the Punjab Water Supply and Sewerage Board CPF Rules 1982, the interest of provident fund is payable only upto the date when it becomes payable. Suffice it to say that the lower appellate Court concurred with the findings of the trial Court.

I have heard learned counsel for the parties and have also carefully gone through the file.

In this case, the short dispute is as to whether the plaintiff is entitled to interest for the period from 24.9.1993 to 13.7.1999 for which his CPF amount was not transferred by the Punjab Water Supply and Sewerage Board to the Municipal Corporation, Ludhiana on his posting by way of transfer in Municipal Corporation, Ludhiana? On the transfer to the new post, all the dues were required to be immediately transferred to the new department where the plaintiff was to get the interest on the said amount. However, due to negligence of the Punjab Water Supply and Sewerage Board, the funds were not transferred for nearly six years.

The question is whether the plaintiff is entitled to any interest for the said period or he is to be denied of any interest? I find that if the funds are illegally kept by the Punjab Water Supply and Sewerage Board for nearly six years. The plaintiff cannot be deprived of interest for the said period. CPF Rule 10(2) read with Rule 17 of the Punjab Water Supply and Sewerage Board CPF Rules 1982 does not take care of such situation where funds are not transferred due to the negligence of the department for a considerable period. Some reasonable period can be taken for transferring the funds, say nearly three months. Thereafter, the funds were to be transferred and the plaintiff would have incurred the interest on said amount from Municipal Corporation, Ludhiana. The Municipal Corporation, Ludhiana allowed the interest only from the date when it received the amount. As such, the impugned judgment dated 10.4.2009 passed by the learned Civil Judge, Senior Division, Chandigarh as well as the judgment dated 7.5.2012, passed by the learned Additional District Judge, Chandigarh are not sustainable in the eyes of law being contrary to the legal canons and the established principle of law. Accordingly, the same are set aside. Punjab Water Supply and Sewerage Board – respondent/ defendant No.2 is directed to pay the interest on Rs.1,57,586/- from 1.1.1994 to 13.7.1999 @ 8% per annum. The amount so calculated shall be paid to the plaintiff within three months. So far as limitation is concerned, in case of the arrears of an employee and interest thereon, it is recurring cause of action and will arise every day the payment is not released. Therefore, there is no question of suit being time barred. The costs of the suit throughout are also allowed.

Appeal is accordingly allowed.

In view of disposal of the appeal, all applications pending also stand disposed of.

13.08.2015 **(Kuldip Singh)**
gk **Judge**