

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

107

Regular Second Appeal No.3066 of 2013 (O&M)
Date of Decision: September 15, 2015

Uttar Haryana Bijli Vitran Nigam Ltd. and others

...Appellants

Versus

Jugal Kishore

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Dinesh Arora, Advocate
for the applicants-appellants.

Mr. J.K. Goel, Advocate
for the caveator-respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.8169-C of 2013

Prayer in this application is for condonation of delay of 28 days in re-filing the appeal, for which the reason has been given that after receipt of the case file on objection being raised by the Registry on the appeal, some more documents were called for which were supplied by the appellants-department, which resulted in the delay of 28 days in re-filing the appeal. The application is supported by the affidavit of the Clerk of the counsel.

For the reasons mentioned above, the present application is allowed.

Delay of 28 days in re-filing the appeal stands condoned.

RSA No.3066 of 2013

The judgment and decree was passed by the Civil Judge (Junior Division), Karnal, dated 29.11.2011 by which the suit of the respondent-plaintiff for declaration along with consequential relief of

mandatory injunction has been partly decreed holding therein that the order dated 03.05.2010 which was impugned being devoid of any force stands set aside and the department is directed to release the arrears of pensionary benefits within a period of one month from the date of judgment failing which the department shall be liable to make the payment along with interest at the rate of 9% as penal interest over the said amount till the date of its realisation, which has been modified on 30.11.2012 by the Additional District Judge, Karnal, in the appeals preferred by both the parties to the suit, to the extent that the plaintiff shall be entitled to the interest at the rate of 9% per annum from the date of expiry of two months of his retirement till the actual payment. The UHBVN Limited has challenged the said judgments and decree in the present appeal.

2. It is the contention of learned counsel for the appellants with vehemence that the judgments and decree passed by the Courts below are not sustainable as the order dated 03.05.2010 passed by the appellants-defendants is in accordance with law, which did not call for any interference. He has further asserted that the interest at the rate of 9% per annum, which has been granted after two months from the date of retirement of respondent-plaintiff, is unreasonable as the interest is on the higher side and requires to be reduced to a reasonable level.

3. I have considered the submissions made by learned counsel for the appellants and with his assistance have gone through the judgments passed by the Courts below but do not find any merit in the submissions made by learned counsel for the appellants.

4. Both the Courts below have rightly after going through the evidence on record come to the conclusion that the impugned order dated

03.05.2015 Exhibit P-12 was not in accordance with law and has thus been rightly held to be not holding the field. The interest which has been granted to the respondent-plaintiff at the rate of 9% per annum after expiry of two months from the date of his retirement till the actual payment also is just and reasonable in the peculiar facts and circumstances of the present case, which do not call for any interference as the respondent-plaintiff has been denied his rightful claim of retiral benefits without any basis and justification.

5. Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

6. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

September 15, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE