

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 320 of 2015 (O&M)
Date of Decision : 19.11.2015

Punjab Agro Foodgrains Corporation & anr.Appellants

Versus

Jagdev SinghRespondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Somesh Gupta, Advocate
for the appellants.

Surinder Gupta, J. (Oral)

Heard.

2. Plaintiff-respondent-Jagdev Singh filed suit seeking declaration to the effect that he is entitled for the release of gratuity and leave encashment after his retirement and mandatory injunction directing the defendant-appellants to release the same with interest.

3. The case of the plaintiff, in brief, is that he was employed as Auto Electrician on 03.02.1971. He retired on 31.07.2007. The defendant-appellants withheld a sum of ₹ 2,13,098/- from the amount of gratuity and leave encashment of plaintiff-respondent on the ground that he has caused loss to the defendant-appellants to this extent. Admittedly, no enquiry was conducted and no punishment order was passed against the plaintiff-respondent. The order to withhold the amount of ₹ 2,13,098/- was passed by the disciplinary committee on 05.03.2010 i.e. during pendency of the suit.

4. Learned counsel for the appellants argues that loss caused by plaintiff came to the notice of appellants one month

before his retirement. Appellant sought legal opinion to initiate departmental action against the plaintiff-respondent but legal advisor apprised the appellants that departmental action could not be initiated against the plaintiff-respondent after his retirement.

5. The suit of the plaintiff was dismissed by the Additional Civil Judge (Senior Division), Sangrur with observation that he had failed to prove that no loss was caused to appellant because of his negligence. His appeal was accepted by the Ist Appellate Court and it was held that without any enquiry and punishment order, no recovery from the retiral benefits of plaintiff-respondent could be made by the department.

6. As there was no punishment order against the plaintiff-respondent authorizing the appellants to withhold his retiral benefits, I find no legal or factual infirmity in the judgment of Ist Appellate Court calling for any interference. No substantial question of law requiring determination arises in this appeal, which has no merit.

Dismissed.

November 19, 2015
jk

(SURINDER GUPTA)
JUDGE