

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 3401 of 2015 (o&m)

Date of decision : July 23, 2015

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The DAV College Trust and Management Society
through its General Secretary, Chitra Gupta Road, New Delhi
and anotherAppellants

Versus

P.K Sharma and another
.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Rajdeep Singh Cheema, Advocate for the appellants.

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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?*

RITU BAHRI, J

The appellants-defendants no. 1 & 2 have come up in this regular second appeal against the judgment of the trial Court dated 2.11.2011 passed by the Civil Judge (Junior Division), Chandigarh and judgment dated 26.3.2015 passed by the Additional District Judge, Chandigarh, whereby an appeal against the judgment of the trial Court was dismissed. Vide the trial Court judgment, the suit of the plaintiff-respondent no.1 (hereinafter referred to as 'the plaintiff') for recovery of Rs.4,05,750/- has been partly decreed and he was held entitled to interest @ 8% on the delayed payment of retiral benefits from the date amount became due to the date of payment.

The facts not in dispute are that the plaintiff was initially appointed as Science Teacher with defendant no.2-DAV Senior Secondary School, Sector 8, Chandigarh, on which post he was confirmed on 4.12.1968 and thereafter, continued working with defendant no.1 up to 1987. He was promoted on 1.1.1998 to the post of Principal and remained posted at different places. He retired on 31.7.1999 on attaining the age of superannuation. Plaintiff filed CWP No. 13803 of 2000 in this Court for release of his retiral benefits. Vide order dated 15.9.2003 passed by this Court, the plaintiff was relegated to avail his remedy before the Civil Court.

The trial Court after going through the evidence led by the parties observed that after attaining the age of superannuation on 31.7.1999, the first installment of gratuity was paid to the plaintiff amounting to Rs.1,02,465/- on 15.2.2000 and second installment of gratuity was paid on 10.10.2002. Leave encashment amounting to Rs. 1,84,950/- was paid to the plaintiff on 11.6.2002. The defendants in their written statement have admitted the payment of aforesaid amounts and the date of retirement of the plaintiff. Hence there was a delay ranging from 6 months to 3 ½ years in payment of above said retiral benefits. The above said delay was further admitted by the defendants in the evidence of DW-1 and DW-2. The defendants examined Ashwani Gupta as DW-1 who tendered into evidence his affidavit as Ex. DW1/A wherein he has reiterated the stand of the defendants in the written statement. He proved on record the documents, copy of appointment letter of the plaintiff as Ex. D-1; U.T

Government Aided School Teacher, CPF-cum-Pension Rules, 1965 as Ex. D-2; service book of the plaintiff as Ex. D-3. DW-2, Deepak Kumar Sinha tendered his affidavit Ex. DW2/A wherein he has corroborated the evidence of DW-1. He also proved on record the agreement executed between NTPC and defendant no.1 as Ex. D-4. It has been further admitted by the defendants in their written statement as well as evidence of DW-1 & DW-2 that all the retiral benefits including gratuity and leave encashment have been released to the plaintiff by defendant no.3 after receipt of same from defendant no.1. Finally the suit of the plaintiff was partly decreed by the trial Court and the plaintiff was held entitled to interest @ 8% on the delayed payment of retiral benefits from the date amount became due to the date of payment i.e on amount of Rs.1,02,465/- from 31.7.1999 to 15.2.2000; on amount of Rs.2,38,503/- from 31.7.1999 to 10.10.2002 and on amount of Rs.1,84,950/- from 31.7.1999 till 11.6.2002 along with future interest at the rate of 6% from the date of decree till realization. The defendants were jointly and severally held liable to pay the decretal amount.

On appeal, the lower appellate Court affirmed the findings of the trial Court and dismissed the appeal with costs and upheld the assumption of the trial Court. It was further held that the Court at Chandigarh had the jurisdiction to entertain the suit as the plaintiff had joined the service with DAV Senior Secondary School, Sector 8, Chandigarh and all the payments of retiral benefits were made at Chandigarh. The plaintiff had earlier filed a civil writ petition in this

Court and vide order of this Court he was relegated to approach the Civil Court.

Judgments passed by both the Courts below do not suffer from any misreading/perverse reading of evidence. No substantial question of law arises for consideration in this regular second appeal. Hence the same is dismissed.

July 23, 2015
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(**RITU BAHRI**)
JUDGE