

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

RSA No.3444 of 2015 (O&M)

Date of decision: 28.08.2015

The DAV College Trust & Management
Society and another

....Appellants

Versus

P.K. Sharma and another

....Respondents

CORAM: HON'BLE MR. JUSTICE K.C. PURI.

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

K.C. PURI J. (Oral)

CM No.8339-C of 2015

This is an application filed under Section 151 CPC seeking exemption from filing the certified copies of judgment and decree dated 02.11.2011.

For the grounds mentioned in the application, the same is allowed.

RSA No.3444 of 2015 (O&M)

The DAV College Trust and Management Society has directed this appeal against the judgment and decree dated 02.11.2011 passed by Civil Judge (Junior Division), Chandigarh and the judgment and decree dated 26.03.2015, passed by Additional District Judge, Chandigarh.

Briefly stated, the defendant-plaintiff, namely, P.K. Sharma, filed suit for recovery of Rs.4,05,750/- including interest @ 12% for delayed payment of first installment of gratuity of Rs.1,02,465/- on 12.05.2000 late by 199 days amounting to Rs.6,704/-, delayed payment of second installment of gratuity of Rs.32,38,503/- on 10.10.2002 late by 3 years 6 months amounting to Rs.1,00,171/-, payment of leave encashment of Rs.1,84,950/- on 11.06.2002 late by 2 years 10 months amounting to Rs.62,883/-. The plaintiff has also claimed arrears of pay revision by 5th Pay Commission implemented by Government of India w.e.f. 01.01.1996 amounting to Rs.1,08,462/- along with interest @ 12% amounting to Rs.1,99,570/- and travelling allowance amounting to Rs.23,572/- along with interest @ 12% total amounting to Rs.38,422/-.

That suit was resisted by the defendant and Sh. Hem Raj Mittal, Civil Judge (Junior Division), Chandigarh, vide judgment and decree dated 02.11.2011 partly decreed the suit of the plaintiff along with interest @ 8% on delayed payment of retiral benefits from due date till payment as detailed in the decree-sheet.

Feeling dis-satisfied with the said judgment and decree, the defendant filed the appeal before the First Appellate Court, Chandigarh and Mr. P.K. Sharma, filed cross-objections for enhancement of interest.

The learned First Appellate Court vide two separate judgments dismissed the appeal preferred by the defendant-appellant, whereas vide separate judgment cross-objections were accepted and rate of interest was enhanced from 8% to 12%.

The defendant filed Regular Second Appeal No.3401 of 2015 against both the judgments and decrees dated 02.11.2011 and 26.03.2015. The aforesaid appeal was dismissed vide judgment dated 23.07.2015, passed by this Court. The points raised in the present appeal are the same as in RSA No.3401 of 2015. Since, the appeal of the defendant-appellant has already been dismissed and as such, the present regular second appeal is also without any force and the same stands dismissed. The enhancement of interest from 8% to 12% the employee is not wrong, more so, when he has been deprived of the amount. So, I have no hesitation in holding that no substantial question of law has arisen in the present appeal.

Consequently, the appeal is without any merit and the same stands dismissed.

28.08.2015

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(K.C. PURI)
JUDGE