

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

**R.A. No.61-CII of 2013 in
C.R. No.2607 of 2012
Date of Decision:11.12.2015**

Om Parkash

.....Applicant- Petitioner

Vs.

DHBVNL and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

Present:- Mr. Gunjan Mehta, Advocate for the applicant.

Mr. Sudhir Hooda, Advocate for the respondents.

K. KANNAN, J.(Oral)

The revision petition was dismissed summarily in the absence of any representation on 14.2.2013. Application for review was filed to contend that the dismissal was erroneous since the order by the executing court traversed beyond terms of the decree. The decree provided for ACP scales to be applied to the plaintiff- decree-holder. It provided also for interest to be calculated thereon, besides other relief for recovery of sum that was omitted to be disbursed at the time of superannuation and also interest for delayed payment, pension and gratuity. These reliefs have been granted and the appeal filed by the defendant was also dismissed.

The executing court has declined the relief sought in the execution petition only because the respondent made a reliance on a subsequent order purported to have been issued by the government that ACP scales cannot be claimed beyond a particular period of time. If there was any order disentitling the plaintiff to secure the ACP scales, it must have

been at defence taken to non-suit the plaintiff and it could not be brought at the stage of execution by a judgment debtor. The government is bound by every order passed by the Civil Court to which it was a party and there can be no proceeding passed before or after the decree that can annul the effect of the decree. The dismissal of the execution petition by the Court below is erroneous and it is set aside. The matter is remitted to the executing court to examine the amounts claimed under various heads and proceed further to process execution for realisation of the sums, discarding any order that the government may have passed subsequent or before the decree. The only payment that could be considered by the executing court are payments made by the State after the decree and duly certified by the Court in the manner contemplated in the Order 21 Rule 1 CPC. No other uncertified orders or payments could even be entertained by the executing court.

The order already passed dismissing the civil revision is recalled and the review application is allowed on the above terms.

December 11, 2015
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(K.KANNAN)
JUDGE