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

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**RSA No. 1571 of 2014 (O&M)**
Date of decision : May 20, 2015

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Punjab National Bank and others
...........Appellants

Versus

Arun Kumar
...........Respondents

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**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

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

Mr. Rajeshwar Singh Thakur, Advocate for the respondent.

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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**

Appellants-defendants (hereinafter referred to as `the defendants') have come up in regular second appeal against the judgment dated 6.1.2014 passed by the District Judge, Patiala whereby an appeal against the judgment dated 5.1.2012 passed by the Additional Civil Judge (Sr. Division), Patiala was dismissed. Vide the judgment of the trial Court, the suit of the plaintiff-respondent (hereinafter referred to as `the plaintiff') was decreed and the plaintiff was held entitled for the pension with interest @ 12% from the deemed date of retirement and plaintiff was also held entitled for the pensionary benefits along with medical allowances leave encashment, gratuity and commutation etc. as per rules and regulations.

The facts of the suit are that plaintiff had joined the services of the defendant-Bank on 15.7.1974 and on 5.6.1995, he left India and had gone to Canada. After that day, plaintiff never returned to India and he remained absent from his duty. Plaintiff had filed some applications for extension of his leave but all the applications were rejected as no leave was credited in his account. The plaintiff had served for 20 years with the Bank and as per the Rules he had every right to get the pension. Provident Fund and gratuity of the plaintiff were credited into his saving Bank Account No. 14823000100110273. Plaintiff had not completed certain formalities for the settlement of his pensionary benefits and therefore his pension case could not be proceeded by the Bank. The Bank vide order dated 23.9.1996, terminated the services of the plaintiff and he was deemed to be voluntarily retired from the services of the Bank w.e.f. 24.8.1996. The suit of the plaintiff was decreed. An appeal filed by the defendants against the judgment and decree dated 5.1.2012 passed by the trial Court was dismissed

The substantial question of law that arises for consideration in the present regular second appeal is

> *I Whether plaintiff is entitled for 12% interest on payment of pensionary benefits w.e.f 23.9.1996 or with effect from the date of institution of the*

*suit i.e 6.5.2003*

*II Whether the plaintiff is entitled to 12% interest on pensionary benefits.*

After going through the judgments passed by the trial Court and the lower appellate Court it is evident that the plaintiff had the knowledge that his services had been termination by the bank vide order dated 23.9.1996 and he was deemed to be voluntarily retired from the services of the bank w.e.f. 24.8.1996. The Bank had issued him several notices/letters to the plaintiffs Ex. D-1 to Ex. D-10 asking the plaintiff to resume his duties. But the plaintiff did not resume his duties despite these notices and finally the plaintiff was voluntarily retired from service under Clause 17(b) of the Bipartite Settlement dated 10.4.1989. The necessary payment of provident fund was deposited into his saving Bank Account No. 14823000100110273. After the impugned order was passed in the year 1996, the present suit was filed on 6.5.2003 after a gap of almost seven years. There is no explanation for filing the suit after seven years when the cause of action arose to him way back in the year 1996. The defendants did not dispute the claim of pension, however, there were certain formalities which the plaintiff had to fulfill before necessary orders of pension could be released. Hence keeping in view that the suit was filed on 6.5.2003, plaintiff is held entitled for payment of interest w.e.f the filing of the suit w.e.f 6.5.2003 and not from the date when the pension became due to him as there is no explanation as to why he had filed the suit so late.

Reference can be made to a judgment of Hon'ble Supreme Court in the case of ***D.D Tewari through LRs vs. Uttar Haryana Bijli Vitran Nigam Ltd.***, wherein interest @ 9% p.a was awarded on the delayed payment of pension and gratuity from the date of entitlement till the date of actual payment.

In view of all that has been discussed above, the judgment of the trial Court is being modified to the extent that the plaintiff is held entitled to 9% interest w.e.f the date of filing of the suit i.e 6.5.2003.

With the above modifications, this regular second appeal is disposed of.

May 20, 2015 **( RITU BAHRI )**
***ritu*** **JUDGE**