

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

C.R. No.1592 of 2015

Date of Decision.23.11.2016

Dr. N.S. Tomer

.....Petitioner

Vs

The Punjab Agricultural University and another

.....Respondents

Present: Mr. Anurag Jain, Advocate
for the petitioner.

Mr. M.L. Saggar, Senior Advocate with
Ms. Armaan Saggar, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-decree holder submits that in pursuance of the judgment and decree dated 24.12.2008, the suit of the petitioner-plaintiff was partly decreed and declaratory relief had been granted to the effect that he is entitled to get the retiral benefits, gratuity, pension etc. along with interest applicable on the account of GPF after deducting the amount on account of liability for execution of the surety bonds Ex.P13.

He further submits that interest accrued from the period 2011 to 2014 has not been paid along with all the benefits as being demonstrated vide Annexure C2 at page 18 of the paper book. He submits that payment of ₹1,61,387/- had been paid on 29.01.2014 but the element of interest in respect of various heads is only for 2004, 2008, 2009, so on and so forth and therefore, there is shortfall of interest regarding the aforementioned period. This fact has not been noticed by the Court below, thus, the order under challenge is liable to set aside.

Saggar, learned counsel appearing for the respondents submits that the amount disbursed has been totally in consonance with the judgment and decree and there is no miscalculation, much less, any fallaciousness, rightly so, the Executing Court after due application of mind has consigned the execution application being fully satisfied, thus, urges this Court for confirming the order under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that Mr. Anurag Jain, learned counsel appearing for the petitioner has been able to demonstrate this Court by referring to Annexure P-2 that payment of ₹1,61,387/- admittedly was paid on 29.01.2014 but as per Annexure C2, interest factor has been only calculated upto period i.e. 2004, 2008 and 2011 etc. In my view, the Executing Court has not taken care of this aspect and therefore, there is abdication, much less, fallaciousness.

For the foregoing reasons, the impugned order is set aside. The matter is remitted back to the Executing Court for fresh consideration. In the observations made above, the execution application is ordered to be restored. Both the parties shall be at liberty to give fresh calculations strictly in terms of the judgment and decree and as well as the payment already made and thereafter, the Executing Court shall determine the outstanding amount, if any, in accordance with law. The revision petition is disposed of on the above terms.

(AMIT RAWAL)
JUDGE

November 23, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No