

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

CR No.8272 of 2016(O&M)

Date of decision:7.12.2016

State of Haryana through Collector, Karnal and othersPetitioners

VERSUS

V.N. Gaur and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Subhash Chander, DAG Haryana for the petitioners.

REKHA MITTAL, J.(Oral)

The present petition directs challenge against order dated 10.08.2016 passed by the Civil Judge (Junior Division), Karnal whereby the petitioner/JD has been directed to give interest on delayed payment of commuted pension.

Counsel for the petitioner has submitted that as delay in submitting pension papers is attributable to the respondent/decreed holder, the petitioner cannot be burdened with payment of interest on alleged delayed payment of commuted pension.

I have heard counsel for the petitioner, perused the paper-book particularly the judgment and decree dated 09.05.2012 passed by the trial Court and the order impugned.

Any such plea that the respondent/decreed holder himself is to be blamed for delay in release of his pensionary benefits is an issue required to be raised during trial for adjudication. If no such issue was raised before the trial Court, it is deemed to have been waived by the petitioner. However, in the present case, such an issue was actually raised

before the trial Court but was answered against the petitioner. As per the settled position in law, the executing Court cannot go beyond the decree. Once the trial Court has accepted claim of the decree holder for his entitlement to interest at the rate of 9% per annum on the delayed payment with effect from the date of retirement till actual payment, no fault can be found in the impugned order warranting intervention.

Dismissed.

DECEMBER 7, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no