

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(227)

RSA No. 2090 of 2013

Date of Decision: 27.10.2016

Amrik Singh

.....Appellant(s)

Versus

Union of India and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. R.D. Bawa, Advocate
for the appellant.

Mr. Anil Chawla, Advocate
for the respondents.

P.B. BAJANTHRI, J. (Oral)

In the present appeal, the appellant has questioned the validity of Appellate Court order dated 19.02.2013 as well as Trial Court dated 31.05.2011.

2. The appellant retired from General Reserve Engineer Force (GREF) as a Assistant Engineer (E&M) on 02.08.1993. The respondents have deducted a sum of ₹ 23,720/-, an amount of field allowances already stated to have been paid on 01.08.1994. Thus, the appellant filed a civil suit, insofar as deduction of a sum of ₹ 23,720/- from his retiral benefits and sought for direction to refund the amount along with interest. Both the Trial Court and Appellate Court rejected the claim of the appellant for want of jurisdiction. Suit was filed in the year 2010 and matter is pending consideration for the last 6 years.

3. Short question for consideration is whether the respondent can suo moto deduct a sum of ₹ 23,720/- from the appellant's retiral benefits or not? The respondents before deduction of ₹ 23,720/- should

have issued a show cause notice or held enquiry insofar as double payment of field allowances, if any. Such excess payment would be made known to the likely to be affected persons like the appellant. The respondents have failed to comply principles of natural justice before deduction of ₹ 23,720/- towards field allowances from the retiral benefits is highly arbitrary and illegal.

4. Consequently, the order passed by the Trial Court as well as Appellate Court are set aside. It is to be noted that issue is relating to deduction of a sum of ₹ 23,720/- from the retiral benefits. Therefore, suit is maintainable before the Trial Court. Consequently, rejection of civil suit on the ground of jurisdiction is incorrect so also confirming the decision of the Trial Court by the Appellate Court. In view of these facts and circumstances, the respondents are directed to refund the deducted amount of ₹ 23,720/- to the petitioner within a period of three months from today. However, liberty is given to the respondents to proceed by issuing show cause notice proposing to deduct or sum of ₹ 23,720/- towards field allowance as it was double payment. After due consideration of reply to show cause notice to be issued.

Appeal stands disposed of.

(P.B. BAJANTHRI)
JUDGE

27.10.2016
sahil soni

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No