

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

RSA No.4274 of 2013 (O&M)

Date of Decision:- 4.5.2016.

State of Haryana and others

.....Appellants

Versus

Dr. Prithvi Singh Sangwan

.....Respondent

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

1. Whether Reporters of local papers 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?

Present: Mr. R.K. Makkad, DAG, Haryana for the appellants.

Mr. Narender Singh, Advocate for the respondent.

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**P.B. BAJANTHRI, J.**

1.) The respondent, while he was in service was retired prematurely on 10.6.2003. He was facing number of departmental inquiries. Two of the inquiries were concluded on 10.10.2008 and 23.10.2008. Before conclusion of the departmental inquiry, he had filed a suit on 7.3.2008 for release of retiral benefits. On 2.3.2012, trial Court granted relief to the respondent directing the appellants to release the pensionary benefits of the respondent within a period of three months along with interest @ 18% per annum from the date of conclusion of departmental inquiry till the time of actual realization. The appellants aggrieved by the order of trial Court preferred appeal. The appeal was dismissed on 30.7.2013. This Regular Second

Appeal has been presented by the appellants wherein both the orders passed by the trial Court as well as Appellate Court are under challenge.

2.) The appellant – Additional Director (Administration), Directorate of Agriculture, Haryana, Panchkula has filed an affidavit regarding compliance of the Trial Court order. Para 3 is reproduced hereinbelow:-

*“That an amount(s) of interest and penal interest on account of House Building Advance and Car Loan Advance, obtained by the respondent/plaintiff, were outstanding against the respondent/plaintiff, details of which are as under:-”*

| Sr. No. | Particulars                       | Outstandi ng interest at the time of retirement (a) | Penal interest @ 10% per annum (b) | Period of penal interest                                                                         | Total amount (a+b) | Remarks                                                                                                                                                                                                       |
|---------|-----------------------------------|-----------------------------------------------------|------------------------------------|--------------------------------------------------------------------------------------------------|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1       | House Building Advance @ 9 % p.a. | 31679/-                                             | 39972/-                            | 03/1986 to 08/1988, 08/1989, 10/1990 to 12/1990, 03/1991, 08/1991 to 07/1992 08/2003 to 04/2009. | 71651/-            | Out of total outstanding amount (1,61,440/-) Rs.1,00,000/- has been adjusted/recovered from the withheld gratuity and whereas an amount of Rs.61,440/- is still outstanding against the respondent/plaintiff. |
| 2       | Car Loan Advance @ 10% p.a.       | 35242/-                                             | 54547/-                            | 08/1996 to 12/1996, 05/2002 to 04/2009                                                           | 89789/-            |                                                                                                                                                                                                               |
|         | Total amount                      |                                                     |                                    |                                                                                                  | 161440/-           |                                                                                                                                                                                                               |

*Apart from the above an amount of Rs.2985/- on account of*

*pesticides is also still outstanding against the respondent/plaintiff.*

*Therefore, in view of the above it is established that total amount of Rs.64,425/- (61440/-+2985/-) is still outstanding against the respondent/plaintiff and the same is required to be deposited by the respondent/plaintiff.”*

3.) Reading of the above statement, it is evident that respondent had availed House Building Advance and Car Loan Advance. He had not repaid the principal and interest amount for certain periods which have been indicated above. Therefore, the appellants have imposed penal interest insofar as non-payment of House Building Advance and Car Loan Advance. Thus, the amount has been re-adjusted which was withheld by the appellants. In view of the statement, the trial court order had been complied.

4.) The learned counsel for the respondent disputed the fact that the appellant cannot impose penal rent insofar as House Building Advance and Car Loan Advance. The respondent during the intervening period has not given his consent to adjust the withheld amount towards House Building Advance and Car Loan Advance. Therefore, the appellants have rightly imposed penal rent in respect of above loan advances. Since the appellants have settled claim of the respondent, the question for consideration at this stage is whether the appellants are liable to pay interest of 18% on the

belated settlement of retiral benefits or not. Having regard to the facts and circumstances, that the respondent was facing departmental inquiry and he was punished and thereafter the punishment was set aside, the appellants are liable to pay interest @ 12 %. To that extent, the Trial Court order is modified from 18 % to 12 % on the retiral benefits.

5.) If the respondent is disputing various interest part is concerned, he may approach the appellant by making necessary representation with material. The same shall be examined by the appellants who shall take a decision within a period of three months from the date of receipt of representation and communicate the decision thereon.

6.) Appeal stands disposed of.

**(P.B. BAJANTHRI)**  
**JUDGE**

**May 4, 2016.**

*sandeep sethi*