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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.270 of 2016 (O&M)
Date of decision: January 27, 2016

Amrit Lal Gupta

.......Appellant

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. A.P.S. Rehan, Advocate
for the appellant.

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SABINA, J

Appellant had filed suit for declaration that he was entitled for grant of interest on account of delayed payment of retiral benefits.

The case of the appellant, in brief, was that he was working as Stenographer with the Food and Supplies Department. Appellant moved an application for premature retirement on 28.02.2008. Appellant had requested that he may be prematurely retired after the expiry of three months notice period. However, the defendants delayed the decision on the application and ultimately, appellant was prematurely retired vide order dated 28.08.2008. After the grant of premature retirement, payment of retiral benefits to the appellant was unnecessarily delayed by the defendants. Hence, the suit was filed by the appellant.

Respondents-Defendants in their written statement averred that appellant had retired from service on 31.08.2008 and leave encashment amounting to ₹2,82,820/- was released to him. General Provident Fund (GPF) payment was made to him along with interest and commuted pension was also released to the appellant without any delay.

On the pleadings of the parties, following issues were framed by the trial Court:-

"1. Whether the plaintiff is entitled to the relief of declaration as prayed for?OPP

2. Whether the plaintiff is entitled to the relief of mandatory injunction as prayed for?OPP

3. Whether the suit of the plaintiff is not maintainable?OPD

4. Whether the plaintiff has no cause of action to file the present suit?OPD

5. Whether the suit is bad for non-joinder of necessary parties?OPD

6. Relief."

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decree dated 09.05.2011 decreed the suit of the plaintiff. The appeal filed by the defendants was allowed by the First Appellate Court vide judgment/decree dated 30.04.2015. Hence, the present appeal by the appellant-plaintiff.

I have heard learned counsel for the appellant and have gone through the record available on the file carefully.

First Appellate Court while allowing the appeal filed by the defendants has held as under:-

> *“This is not disputed that the employee has retired from service on 31.8.200, after obtaining pre-mature retirement. He has not retired after attaining the superannuation. In case of a person/employee has to retire on attaining of superannuation, their pension case has been forwarded six months before the retirement date. But in case of employee who has taken premature retirement, then this principle cannot be followed. Otherwise also, it is on the file that majority of payment has been given to the employee within six months and it comes on the file through the examination-in-chief of Shri Amrit Lal Gupta that he has received the amount of ₹2,82,820/- on 13.2.2009 i.e. within a period of six months and also got GPF installment of ₹2,70,000/- on 14.11.2008 and second installment of ₹85,507/- on 23.1.2009 within a period of six months. So, the learned trial Court has failed to come to conclusion that there is no inordinate delay on the part of the defendant department, as there is no evidence or document on the file to prove that there is inordinate any delay on the part of the appellants/defendants in releasing the terminal benefits. So, the State Government is not liable to pay interest and no interest is liable to be paid. So the learned trial Court is erred in deciding the issues No.1 and 2. Both the issues are set aside and reversed.”*

Admittedly, appellant had prematurely retired from service on 31.08.2008. Appellant had received ₹2,82,820/- towards leave encashment on 13.12.2009. Appellant had received first sanction of GPF to the tune of ₹2,70,203/- on 14.11.2008 and second sanction of ₹85,507/- on 23.01.2009 and gratuity to the tune of ₹3,50,000/- on 21.07.2009 and commuted value of pension amounting to ₹5,13,915/- on 20.07.2009. The reasons given by the First Appellate Court while allowing the appeal are sound reasons. In the facts and circumstances of the present case, it could not be said that there was inordinate delay in release of retiral benefits to the appellant on the part of the defendants.

No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

(SABINA)
JUDGE

January 27, 2016
mahavir