

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

RSA-1056-2014 (O&M)

Date of decision: January 11, 2016

**ASSISTANT PROVIDENT FUND COMMISSIONER (PENSION) AND
ANOTHERAppellants**

Versus

RAM KUMAR AND OTHERSRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

**Present: MR. O.S.BATALVI, Advocate
for the appellants**

SABINA, J

Respondent No.1 had filed suit claiming pensionary benefits with effect from 29.3.2001 whereas he had been allowed the said benefits from 18.4.2006.

The case of the plaintiff, in brief, was that he was regular employee of respondent No.2 and had sought voluntary retirement on 29.3.2001. It is further the case of the plaintiff that he had completed all the necessary formalities for grant of pensionary benefits in the year 2001 but he had been granted pensionary benefits with effect from 18.4.2006.

Defendants No. 1 and 2 in their written statement, averred that the plaintiff had completed all the formalities for retiral benefits as well as pension on 15.12.2001 and had submitted the necessary

documents. Defendants No. 1 and 2 had sent the said documents to defendants No. 3 and 4 vide letter dated 21.12.2001. However, plaintiff had not attained the age of age of 50 years on 29.3.2001.

Defendants No. 3 and 4, in their written statement, averred that the pension papers were sent to the Regional Office, Delhi on 18.4.2006 and were received in Sub Regional Office on 4.5.2006. Pension of the plaintiff had been sanctioned with effect from 18.4.2006 as he was entitled to receive reduced pension after attaining the age of 50 years.

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

- “1. Whether the plaintiff is entitled to award of pension from 9.3.2011 to 18.4.2006 alongwith interest @18% per annum?OPP
2. Whether plaintiff is entitled to mandatory injunction as prayed for?OPP
3. Whether the suit is not maintainable?OPD
4. Whether the suit is time bared?OPD
5. Whether the plaintiff is estopped from filing present suit?OPD
6. Whether suit is bad for the purpose of proper court fee?OPD
7. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment and decree dated 9.6.2009 decreed the suit of the plaintiff to the effect that he was entitled to receive benefits of pension from 18.5.2004 to 18.4.2006 along with

interest @ 12% per annum from defendants No. 3 and 4 till realization. Aggrieved against the said judgment and decree, plaintiff as well as defendants No. 3 and 4-appellants preferred appeals and the same were dismissed by the First Appellate Court vide judgment and decree dated 28.11.2011. Hence, the present appeal by defendants No. 3 and 4.

Learned counsel for the appellants has submitted that Form 10D had been submitted by the plaintiff on 18.4.2006. Hence, the plaintiff was entitled to receive pension with effect from 18.4.2006 i.e. the date when he had completed all the formalities.

In the present case, the fact that the plaintiff is entitled to receive reduced pension on attaining the age of 50 years is not in dispute. The question that requires consideration is as to whether plaintiff is entitled to reduced pension from the date he completed 50 years or with effect from 18.5.2006.

Plaintiff had attained the age of 50 years on 18.5.2004. It has been noticed by the First Appellate Court that Exhibit D5, letter dated 12.9.2005 was sent by the State Farms Corporation of India Limited to Director C.S.F. It has been further noticed by the First Appellate Court that from letter dated 12.9.2005 Exhibit D5, it was clear that the Regional Provident Fund Commissioner had sent back the case of the plaintiff vide letter dated 31.3.2005 despite sending the case of plaintiff to them on 12.9.2002 vide Exhibit D3. Therefore, the First Appellate Court rightly came to the conclusion that the benefits of pension could not be denied to the plaintiff from the due date i.e. 18.5.2004 as there was no delay on the part of the plaintiff in

submission of his pension papers. The correspondence between defendants No. 1 and 2 and defendants No. 3 and 4 *interse* for completion of pension papers was no ground to deny the pensionary benefits to the plaintiff from the due date. It has been further noticed by the First Appellate Court that no rule had been brought on record to deny the relief of pensionary benefits to the plaintiff prior to the date of submission of Form 10-D. Learned counsel for the appellant has failed to controvert the above observation made by the First Appellate Court.

Hence, in the facts and circumstances of the present case, both the Courts below rightly held that the plaintiff was entitled to receive pension from the date he had attained the age of 50 years.

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

Dismissed.

**(Sabina)
Judge**

January 11,2016

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