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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.5283 of 2015
Date of decision: January 25, 2016

Shian Singh

Versus

.....Appellant

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Shashi Bhushan Nagpal, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration claiming interest on the delayed disbursement of his service benefits on his retirement and arrears of twelve annual increments.

The case of the appellant, in brief, was that he was working as a Treasury Officer, Ajnala and had retired from service on attaining the age of superannuation on 31.05.2003. Pensionary benefits were liable to be paid to the appellant on 01.06.2003. Appellant had submitted necessary papers without any delay. The details of due date and date of payment of retiral benefits as mentioned in Para-2 of the judgment of the First Appellate Court read as under:-

Nature	Amount	Due date	Date payment of	Delay period
GP Fund	3,22,135/-	1.6.2003	1.9.2003	4 months
DCRG	3,30,590/-	1.6.2003	4.11.2003	5 months 10 days
GIS	23,322/-	1.6.2003	16.03.2004	9 months 9 days

Nature	Amount	Due date	Date payment of	Delay period
Commutation Pension	3,19,825/-	1.6.2003	28.10.2003	3 months 27 days
Regular Pension upto Sept. 2003	40,500/-	Every moth since July 2003	14.1.2003	4 months 13 days
Arrears for 12 annual increments	2,60,408/-	Every month since Jan.1992 to 31.5.2003	14.6.2003 & 11.8.2003	Upto 11 years, 6 months

Appellant had filed a writ petition in this Court but was advised to file civil suit.

Defendants in their written statement admitted that the appellant had retired from service on 31.05.2003. It was averred that the appellant had failed to submit the complete pension papers and as soon as the needful was done by the appellant, the benefits were released to him.

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

- “1. Whether plaintiff is entitled to relief of declaration as prayed for along with interest, if so as to what rate?OPP
- 2. Whether the plaintiff is entitled to relief of Mandatory Injunction as prayed for?OPP
- 3. Whether the suit is bad for non-joinder of necessary parties?OPD on defendant No.4
- 4. Whether the suit of the plaintiff is time barred?OPD
- 5. Whether no cause of action arose to the plaintiff against defendants?OPD
- 6. Whether the suit is not maintainable in the present form and liable to be dismissed?OPD to 1 to 3
- 7. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 30.11.2012 decreed the suit of the appellant-plaintiff. Aggrieved against the said judgment/decreed, defendants preferred an appeal and the said appeal was allowed by the First Appellate Court vide judgment/decreed dated 29.05.2015. 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 vide judgment/decreed dated 29.05.2015 while allowing the appeal filed by the defendants-respondents has held as under:-

“It is pertinent to mention here that plaintiff had submitted that the due date of his GP fund was 1.6.2003 but the payment was made to him on 1.9.2003 whereas the defendants/appellants had submitted for release of GPF, it was obligatory for the plaintiff to submit form No. 10 and he submitted the same on 24.4.2003 (Annexure-D4) and the payment was made to him vide letter dated 19.8.2003 (Annexure-D5) including the interest upto the month of July, 2003, therefore, it is clear that the amount was released to him in August and he was given the interest of the month of July as per Ex. D5 and therefore, there is no delay in the payment of GP fund.

The plaintiff had further alleged that his pension, commutation and gratuity was due to him on 1.6.2003 and the same was paid to him with delay. In this respect, the defendants had relied

upon the fact that the plaintiff himself had submitted his pension file on 30.6.2003 i.e. after the delay of one month and it was forwarded to the defendant no.4 vide letter dated 1.8.2003 Ex. D1 and pension was sent vide letter dated 21.8.2003 (Annexure -D2) and commutation and gratuity was sanctioned on 22.8.2003 and 21.8.2003. It has further been submitted by the defendants there there is need to opt for a public sector bank for drawing pension as per instructions Ex. D3 and plaintiff had opted only on 16.9.2003 and thereafter, within a week i.e. on 23.9.2003, his pension documents were forwarded to the concerned bank, therefore, it is clear that there is no delay in the payment of pension and commutation . DCRG was sanction on 29.8.2003 and it was released to him on 14.11.2003, therefore, in both the cases there is no delay in the payment . All these facts have not been denied by him. As regard the GIS the plaintiff had failed to submit the receipt form and he submitted only on 4.3.2004 and the same was released to him within a week on 10.3.2004 and there is no delay in the GIS as well.

As regards the payment of arrears, he had submitted that he was entitled to arrears of 12 annual increments since January 1992 to 31.5.2003 but he had failed to bring on record any evidence as to how he was entitled to annual increments since 1992. Even he had failed to explain why he never challenged same since January, 1992. The defendants had submitted that his pay was revised on 17.6.2009 and same was paid to him within a week and therefore, the plaintiff is not entitled to any arrears of annual increments since January,

1992. Even in cross-examination, he himself admitted that he never represented for increments to the department. Even while relying upon the instructions dated 12 Nov., 1984 produced on record by the defendants, it is clear that if the delay in payment is not due to the failure on the part of the Government, then, department is not liable to pay any interest on the delayed payment and in the present case, it is the plaintiff who had himself committed fault in submitting his pension case to the department after requisite time, hence the judgment and decree of the trial court is hereby set aside.”

Thus, it has been duly noticed by the learned First Appellate Court that the amounts in question had been released to the appellant without any delay on the part of the defendants-respondents. The reasons given by the First Appellate Court while allowing the appeal filed by the defendants are sound reasons.

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

Dismissed.

**(SABINA)
JUDGE**

January 25, 2016
mahavir