

110

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

RSA No.5620 of 2014 (O&M)

Date of decision: January 08, 2016

Raghubir Singh Sandhu

.....Appellant

Versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. O.P. Goyal, Senior Advocate with
Mr. Suneel Rana, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration claiming interest on account of delayed payment of service benefits, i.e. arrears of pay, General Provident Fund (GPF), gratuity, leave encashment and pension etc.

The case of the appellant, in brief, was that he had retired as Sub-Divisional Officer on 30.09.1995 on attaining the age of superannuation. Appellant was granted provisional pension w.e.f. 30.09.1995. It was further the case of the appellant that no disciplinary inquiry was pending against him. Appellant had submitted his pension papers well before his retirement. Despite the said fact, pensionary benefits were not released to the appellant immediately on his retirement. Appellant was paid GPF on 19.07.2001, gratuity on 20.06.2005, arrears of pay for the

period from 13.12.1986 to 30.09.1995 on 23.08.2004, arrears of pay from 04.12.1960 to 15.12.1986 on 29.06.2005, arrears of pay from 20.10.1987 to 31.01.1988 and for the period from 26.12.1992 to 31.03.1994 on 05.02.2003, leave encashment on 29.06.2005 and difference of arrears of pension for the period from 01.09.1995 to 30.07.2005 on 30.07.2005.

Respondents in their written statement averred that provisional pension was sanctioned to the appellant w.e.f. 30.09.1995. An amount of ₹95,939/- was due towards the appellant and he had failed to deposit the same till 27.06.2005. Thereafter, the pensionary benefits were ordered to be released to the appellant.

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

- “1. Whether the plaintiff is entitled to declaration as prayed for?OPP
2. Whether the plaintiff is entitled to mandatory injunction as prayed for?OPP
3. Whether the suit is not maintainable?OPD
4. Relief.”

Trial Court vide judgment/decreed dated 20.08.2013 decreed the suit of the appellant and held that he was entitled to receive interest on amount of Death-cum-Retirement Gratuity and leave encashment at the rate of 12% per annum from the date of application, i.e. 26.05.2004 till the payment of ₹1,13,768/- was made on 20.06.2005 and

leave encashment amount of ₹66,080/- on 29.06.2005. Appellant preferred an appeal against the said judgment/decreed and the same was dismissed by the First Appellate Court vide judgment/decreed dated 21.05.2014. Hence, the present appeal by the appellant-plaintiff.

Learned Senior counsel for the appellant has submitted that at the time of retirement of the appellant, no inquiry proceedings were pending against him, whereas, they were initiated against him in the year 1997 and completed in the year 1998. Learned Senior counsel has further submitted that appellant was never conveyed about the requirement of payment of the amount due against him by the respondents. It was the duty of the Department to have completed the service book of the appellant and the same had been completed by the respondents but had been mis-placed. Due to this reason, appellant had submitted another application Exhibit DA on 26.05.2004.

In the present case, admittedly, appellant had retired on 30.09.1995 on attaining the age of superannuation. Although, the case of the appellant was that no departmental inquiry was pending against him but while appearing in the witness-box, appellant admitted that inquiry was pending against him and the same was completed on 12.02.1998. It has further been noticed by the Courts below that the appellant had deposited ₹95,939/-

on 28.06.2005. Apparently, the said amount was due against the appellant. It appears that due to the fact that amount was liable to be paid by the appellant to the Department, provisional pension was granted to him. Thereafter, due retiral benefits were released to the appellant. It has further been noticed by the Courts below that the appellant had submitted application Exhibit DA on 26.05.2004 and had completed the necessary formalities with regard to submission of pension papers. The arguments raised by the learned Senior counsel are not substantiated from record available on the file. Hence, the same are without any force and are liable to be rejected. The Courts below rightly held that the appellant was entitled to claim interest w.e.f. 26.05.2004.

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

Dismissed.

**(SABINA)
JUDGE**

January 08, 2016
mahavir