IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 09.05.2017

RSA No.2086 of 2007 (O&M)

State of Punjab & others ...Appellants

Vs.

Charan Singh ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Anil Sharma, Addl. AG, Punjab, for the appellants.

Mr. Animesh Sharma, Advocate, for the respondent.

RAJIV NARAIN RAINA, J. (ORAL)

CM No.5870-C of 2017

After hearing learned counsel for the parties, the application is allowed. By consent, the main appeal is taken up for final hearing today itself.

RSA No.2086 of 2007

The narrow issue raised by the defendants-State in this appeal is with regard to rate of interest on admitted delayed payments of gratuity amount payable on retirement of the plaintiff. Both the Courts below have awarded interest at the rate of 12% p.a. from the due date till realization.

The instant appeal was filed in the year 2007. By interim order dated 21.10.2008, while framing the following substantial question of law, this Court stayed the recovery of interest beyond 6%:

> "Whether plaintiff is entitled to interest @ 12% p.a. from the due date till realization when under Section 34 of the

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CPC interest can be granted not exceeding 6% on the principal amount?"

After hearing learned counsel for the parties and considering the submissions, the question of law proposed is not substantial since the issue lies in the realm of discretion and when properly and judiciously exercised is not to be disturbed in second appeal. To my experience of the past, the interest regime prevailing in the year 2007 supports awarding of interest at the rate of 12% p.a. In any case, there has to be penal element in award of interest on delayed payment of gratuity when withheld for improper reasons. Award of higher interest depends on the facts of the case and delay justifies anything between 12% to 18% as per the ruling of the Full Bench of this Court in Dr. A.S.Randhawa Vs. State of Punjab & another, ILR 1997 (2) (Punjab & Haryana) 312. Simple interest @ 6% claimed by the State in appeal to be adequate compensation for loss of money on delayed payment is not the requirement of the hour to justify the State to keep money belonging to its employee in its pocket to earn interest for itself. Whether interest should be levied at non-statutory 12% p.a. or 6% p.a. does not give rise to any substantial question of law much less a question of law which requires to be determined by this Court. The Court is not bound to direct payment of interest restricted at the rate of interest indicated in Section 34 of the CPC. Merely because the appeal arises out of a civil suit does not mean that Court cannot go beyond 6% interest. If ceiling is placed it will impinge on the judicial function and inherent jurisdiction of courts of law. Moreover, interest is compensatory in nature. This is a special discretion exercised by the Courts from case to case and discretion once exercised judiciously and fairly and is relatable to the times in which it was

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passed is not to be tinkered with on hindsight or foresight and this Court should not alter that discretion for the sake of interference.

Accordingly, there is nothing in this appeal which deserves to be dismissed. The substantial question of law proposed in the admission order does not arise. In any case, if it has to be answered, it is answered in favour of the plaintiff-respondent and against the defendants-State.

Interest on the principal amount @ 12% shall be computed as per decree till the date of the stay order and @ 6% from the date of the stay order adjusting the amount paid accordingly. The total amount so determined shall be paid to the plaintiff-respondent within a period of two months from the date of receipt of certified copy of this order. In case of default, the amount in default will carry interest at the rate of 15% till payment.

09.05.2017 **[RAJIV NARAIN RAINA]**
Vimal **JUDGE**

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*

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