

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 227

Civil Writ Petition No.21234 of 2015 (O & M)
Date of Decision: July 25, 2017

Balak Ram

..... PETITIONER

VERSUS

Uttar Haryana Bijli Vitran Nigam Limited & others

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

PRESENT: - Mr. Gurvinder Singh, Advocate, for the petitioner.

Ms. Aakanksha Sawhney, Advocate, for the respondents.

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Jaspal Singh, J

1. Through instant civil writ petition preferred under Article 226/227, petitioner has sought issuance of a writ in the nature of Mandamus, directing the respondents to grant interest @ 18% per annum on delayed payments of retiral benefits from the date of retirement till their actual payment.

2. Undisputably, petitioner – Balak Ram preferred Civil Suit No.336 dated September 12, 2005/ March 21, 2009, captioned as ‘Balak Ram vs. M.D. UHBVN, Panchkula (Haryana) & others’ seeking declaration to the effect that office order No.301 dated December 21, 2004 issued by defendant No.4 – XEN/ Op. Div., UHBVN, Ambala, on allegations of

and not binding upon the plaintiff and for mandatory injunction directing the defendants to release pension, pensionary benefits, gratuity, leave encashment etc. of plaintiff w.e.f. April 30, 2005.

3. The aforesaid civil suit was decreed by the trial court vide judgment & decree dated January 21, 2011, to the following effect:-

“20. In view of my findings upon the above said issues, especially on issue No.1, the suit of the plaintiff succeeds and the same is hereby decreed with costs. The defendant i.e. UHBVN is directed to release all the pensionary benefits etc., as mentioned in the head-note of the plaint, to the plaintiff alongwith interest @ 6% per annum from the date of filing of the petition till its realization within a period of two months from the passing of this judgment and decree, failing which the plaintiff shall be entitled to recover the same in accordance with law. Decree sheet be prepared accordingly. File be consigned to the record room, after due compliance.”

4. Aggrieved against aforesaid judgment & decree dated January 21, 2011, respondents – UHBVN & others preferred an appeal which was allowed vide judgment & decree dated May 08, 2012. Consequently, judgment & decree dated January 21, 2011, referred to above, was set aside and suit of plaintiff – petitioner was dismissed.

5. Petitioner – Balak Ram preferred RSA No.4535 of 2012, captioned as ‘Balak Ram vs. UHBVN Panchkula & others’ which was dismissed as having been rendered infructuous vide order dated July 03, 2015 passed by this Court. In view of the aforesaid litigation which stood culminated by dismissal of the regular second appeal as having been rendered infructuous, instant writ petition on the same allegations claiming interest is barred under Order II Rule 2 CPC read with Order XXIII Rule 1 CPC. The relief claimed by the petitioner in the instant writ petition is no longer available to him in view of withdrawal of RSA No.4535 of 2012 vide

on delayed payments, especially in view of the fact that matter with regard to grant of interest already stood adjudicated between the parties through civil proceedings.

6. In the light of what has been discussed above, there is no merit in the instant petition and the same is dismissed with no order as to costs.

July 25, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No