

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

-.
R.S.A No. 1638 of 2016 (O&M)
Date of decision : May 08, 2017

State of Punjab & Ors.

... Appellants

versus

Darshan Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rahul Verma, AAG, Punjab.

Mr. Surinder Garg, Advocate, for the respondent.

RAJIV NARAIN RAINA, J

1. The State of Punjab has filed this regular second appeal claiming that the Courts below have erred in awarding 9% interest on delayed payments of retirement benefits to the plaintiff and the rate of interest should have been much less. No other question has been raised in this appeal. Is this a grave legal infirmity vitiating the decree in appeal?

2. Heard learned counsel for the parties on the point.

3. The award of interest on delayed payment of service benefits in retirement cases under different heads of claim lies in the discretion of the Courts depending on facts and from case to case. The law on the subject is not standardised but the minimum is codified at 6% in Section 34 of the Code of Civil Procedure, 1908.

4. In the present case the learned Civil Judge, Jr. Division, Faridkot vide judgment and decree dated 18.08.2015, as affirmed by the learned District Judge, Faridkot by his judgment dated 30.11.2015, has decreed simple interest at the rate of 9% per annum due upon default of the department in paying outstanding and non-disputed dues, namely, leave

encashment, pension, amount of gratuity and 25% of the remaining pension for the period 01.03.2011 and 31.07.2013 within reasonable time. Levy of interest for delayed release of superannuation benefits would hardly involve a question of law for determination on the second appeal side of this Court and much less a substantial question within the meaning of Section 100 of the CPC read with Section 41 of Punjab Courts of Act, 1918.

5. A direction that the sums in default will carry 9% interest from the date due till payment is not shocking or arbitrary. When delay is huge and culpable, some element of penal interest can be imposed for the misfeasance of the State in carrying out its obligations towards retirees and the figure would not sound to be out of the ordinary exercise of jurisdiction. Interest @ 9% is only in fractions more than the current rate of interest on fixed deposit receipts in nationalized Banks as per Reserve Bank of India instructions issued from time to time.

6. In Megh Varan Sharma vs. State of U.P & others, 2015 (1) SCT 12 their Lordships of the Supreme Court have held that even when action of withholding retrial benefits is unjustified even then claimant would be entitled to the highest of the maximum rates, at which scheduled Banks are currently paying interest on fixed deposits. The Supreme Court applied the law in Section 2(b) of the Interest Act, 1978 as the appropriate rate of interest in a service dispute of the present kind. For further previous case law on the subject one may see: State of Kerala and Ors. Vs. M. Padmanabhan Nair, AIR 1985 SC 356; R. Kapur Vs. Director of Inspection (Painting and Publication) Income Tax and Anr., (1994) 6 SCC 589, S.K.Dua Vs. State of Haryana and Anr., AIR 2008 SC 1077 and The President /Secretary, Vidarbha Youth Welfare Institution (Society) Vs. Shri.

Pradipkumar s/o Ramchandrarao Lambhate, (2012 (2) Mh.L.J. 752.

7. This statement of law was available to the appellant State when it preferred the appeal but it failed to apply the rulings which have added to its expense in the present appeal and unnecessary workload on the court.

8. Therefore, no interference at all is warranted in further appeal. Even on merits and by the nature of reasons for withholding money due to the plaintiff on his retirement and the time lag involved in making good the money, no case is made out for an intervention to reduce the rate of interest by a few points. It has been a wasteful exercise to casually invoke the appellate jurisdiction of the High Court on a trifling and inconsequential plea for reduction of rate of interest which appears to be for no apparent purpose except to receive its stamp, which the officers in the defaulting department possibly devised to cover up their own lapses in not making payments on time to its rightful owner.

9. This appeal is *ex facie* frivolous and vexatious and is held unfit to be entertained in motion hearing any further. It is accordingly dismissed with costs of ₹ 20,000/- to be paid to the plaintiff respondent. The costs including the money spent in presenting the appeal shall be recoverable from the officers who took the decision to file it, only to waste the precious time of the Court in its burgeoning dockets.

May 08, 2017
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned – Yes
Whether reportable – Yes