

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 212

Regular Second Appeal No.4087 of 2013 (O & M)
Date of Decision: *September 07, 2017*

Sohan Lal Verma

..... APPELLANT

VERSUS

State of Punjab & another

..... RESPONDENTS

. . .

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

. . .

PRESENT: - Mr. Tribhawan Singla, Advocate, for the appellant.

Ms. Sudeepti Sharma, Additional Advocate General,
Punjab.

Ms. Jasvir Kaur, Advocate, for respondent No.2.

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Jaspal Singh, J

1. The instant regular second appeal has been preferred by plaintiff – appellant Sohan Lal Verma against judgment & decree dated September 12, 2012 passed by the Additional Civil Judge (Senior Division), Barnala, whereby suit for recovery filed by him has been dismissed as well as judgment & decree dated April 27, 2013 passed by the Additional District Judge, Barnala, whereby appeal preferred by the plaintiff – appellant against decision rendered by the trial court has been dismissed.

2. Brief facts of the case are that plaintiff filed a civil suit for recovery against the defendants – respondents alleging that he was working

and retired on March 31, 1996. His retiral benefits were withheld and he filed CWP No.6962 of 1998, wherein, vide judgment dated September 29, 2004, this Court directed the defendants to commute his pension by counting his service from April 01, 1961 as qualified service and to release pensionary benefits accordingly. On failure of defendants to comply with the aforesaid directions, plaintiff – appellant filed Contempt Petition No408 of 2005 before this Court, whereupon some payment was made and the petition was disposed of vide judgment dated November 09, 2006 with liberty to the plaintiff to represent for any other monetary benefits which were due to him from the defendants. Accordingly, he approached the defendants vide representation dated January 16, 2007 claiming ₹ 5,02,936/- as interest on delayed payment but getting no response, he again filed CWP No.3327 of 2007 which was dismissed as withdrawn with liberty to file civil suit for recovery and instant suit for recovery was filed.

3. Defendants contested the suit by filing separate written statement by objecting the locus standi of plaintiff to file the suit; no cause of action accrued to file the suit; suit is bad for mis-joinder and non-joinder of necessary parties; plaintiff is estopped by his own act & conduct from filing the present suit; suit is not maintainable; suit is barred by limitation and plaintiff has not come to the court with clean hands. On merits, service rendered by the plaintiff with the defendants is admitted while remaining averments made in the plaint were denied and submitted that pension case of plaintiff has been sanctioned on November 17, 2004 by counting his service w.e.f. April 01, 1961. Pension is being paid to the plaintiff regularly and there is no delay on their part.

Replication was filed wherein plaintiff reiterated the stand

written statement by the defendants. From the pleadings of parties, issues were framed and parties led their evidence. After hearing learned counsel for the parties and perusing the evidence on record, trial court dismissed the suit vide judgment & decree dated September 12, 2012 which was challenged by the plaintiff in appeal. The lower appellate court, vide judgment & decree dated April 27, 2013 dismissed the appeal.

4. Aggrieved by the aforesaid decisions rendered by the courts below, plaintiff – appellant has approached this Court through the instant regular second appeal.

5. Heard.

6. Admittedly, plaintiff – appellant filed a writ petition claiming counting of his past service by fixation of pension from April 01, 1961 onwards and November 26, 1956 onwards. Vide judgment dated September 29, 2004, the petition was allowed and defendants were directed to pay the arrears to plaintiff within one month. No order regarding payment of interest on such arrears was passed by this Court. Regarding relief of counting of his service from November 26, 1956 onwards to fix pension, it was directed by this Court that in case he makes a representation, the same shall be decided by the competent authority by passing a speaking order within next three months. A contempt petition was filed by the plaintiff on the grounds that defendants had not complied with judgment dated September 29, 2004 wherein this Court observed that a draft dated October 30, 2006 was sent to the plaintiff but he refused to accept the same. It was also observed that all the retiral benefits, after counting service of plaintiff from November 26, 1956 to March 31, 1961, were also paid. Even thereafter, plaintiff filed yet another writ petition which was dismissed as

payment in accordance with law. Thereafter, upon representation of plaintiff, a draft of ₹ 16,606/- was prepared but plaintiff refused to accept the same and ultimately, it was delivered to his counsel before this Court. In this view of the matter, it is clear that defendants were not negligent in releasing the arrears of pension of plaintiff because the dispute regarding counting of his service remained pending before this Court and after the decision of this Court, he was paid the amount in time. Thus, plaintiff is not entitled for any interest on the alleged delayed pensionary benefits as the matter was subjudice.

7. In the light of what has been discussed above, there is no infirmity or illegality in the judgments & decrees rendered by the courts below which are hereby affirmed. Consequently, the instant appeal is dismissed with no order as to costs.

September 07, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No