IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

221 **RSA-3696-2016 (O&M)**
Date of Decision: 30.11.2017

STATE OF PUNJAB AND OTHERS ....APPELLANTS

VS

SANT RAM ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. H.S.Sitta, AAG, Punjab
for the appellants.

Mr. Surinder Garg, Advocate
for the respondent.

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AJAY TEWARI, J.(Oral)

This appeal has been filed against the concurrent judgments of the Courts below directing the appellants to pay the delayed payment of his retiral dues with 9% compounded interest.

Brief facts of the case are that the respondent had retired on 30.1.2011 on which date a criminal case was pending against him. Consequently, he was released 75% provisional pension. By that date he had been exonerated in a regular departmental enquiry which had been initiated for the same charges. His other retiral benefits like gratuity, leave encashment and commutation were not given to him. He was ultimately acquitted in Janauary 2013 whereupon all his dues were paid to him without interest and that is why he filed the suit which has been decreed and the State file the instant appeal.

Learned Assistant Advocate General has argued that on the date of the retirement the appellants were entitled to retain the benefit and therefore no interest could have been levied. Counsel for the respondent has argued that the fact that on the date of retirement the appellants were entitled to retain the benefits would not absolve them of compensating the respondent in the event of acquittal, moreso, since in the departmental enquiry he already stood exonerated.

In my opinion, there is weight in the argument of the counsel for the respondent. The entitlement to retain dues in a certain fact situation, for instance the pendency of a criminal case, would not justify the retention in case the employee is acquitted because that would then mean that money belonging to the employee has been retained on account of a wrong accusation. In the circumstances, it cannot be held that the State is not bound to pay interest. Faced with it learned Assistant Advocate General has argued that under the Rules a period of three months is given to the employer to finalize all the dues of retiral benefits and therefore, interest could not have been given to the appellant with effect from 1.2.2011 as has been done in the present case but could have only been given with effect from 1.5.2011. Counsel for the respondent has not denied this fact. Consequently, this prayer is accepted. Further learned Assistant Advocate General has argued that the Courts below erred in granting the interest on the commutation value also. As per him, commuted value is worked out after deducting 1/3rd of the pension. In the present case, the respondent was subjected only to a deduction of 1/4th and had thereby gained extra money and in case interest has to be paid on the commuted value then the respondent should be bound to pay interest on the approximately 9% extra pension that he has received for that period. There is some merit in this argument also. Resultantly, the award of interest on commuted value is set aside. Further I find that in the decree there is some component on which the Courts below have awarded compound interest. It is also clarified that interest which is payable to the respondent would be simple interest and not compound.

With this observation the appeal stands disposed of.

Since the main case has been decided, the pending C.M, if any, also stand disposed of.

30.11.2017 **(AJAY TEWARI)**
anuradha **JUDGE**

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Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No