

**RSA NO.5258 of 2014(O&M)**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA,  
CHANDIGARH**

**RSA NO.5258 of 2014(O&M)**

**Date of Decision: 03.04.2017**

Municipal Committee Mohindergarh

...Appellant

vs.

Dharam Dev Vashisth and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present Mr.Shashi Kumar Yadav, Advocate for the appellant.

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**RAJIV NARAIN RAINA, J (ORAL)**

A dispute as to rate of interest raised is not a substantial question of law to be decided on the regular second appeal side of this Court. The suit of the plaintiff has been decreed for good and sufficient reason and the appeal of the defendant municipality has been dismissed and the plaintiff has been entitled to interest @ 12% p.a on his outstanding retiral benefits from the date of his superannuation till the actual date of payment. Only interest was claimed in the present suit after rights were declared in the previous suit for arrears of pay and allowances with the direction that the plaintiff can be assigned any designation out of the posts mentioned at serial No.19 of Appendix A of the rules.

The Courts *a quo* have suitably protected the appellant Municipal Committee, Mohindergarh to the extent that the interest awarded is only upon those amounts of retiral benefits on which no interest has been paid by the defendant and where interest has been already paid, there will be no charging interest for a second time. This is fair and just dispensation of

justice. The previous litigation between the parties has been made the main plank of challenge by the appellant to the present judgment and decree of the lower appellate court.

There is hardly any gainsaying that interest follows default in payment of money admittedly due and the paying party withholding money illegally and without reasonable cause must be held at fault in case of inordinate delay and saddled with compensatory amends, which interest takes care of. The Court below has delineated both litigations as representing separate causes of action and I have no reason not to agree. In this suit, the right to interest was by itself the cause of action on late payment of retiral dues and other service benefits which were delayed by a decade.

It may be noticed that the plaintiff-respondent retired on 28.02.1998. There was a delay of 10 years in paying the amount. In the earlier litigation, direction was for payment of interest @12% while in the other Regular Second Appeal No. 2275 of 1996 the same was disposed of as having been rendered infructuous vide order dated 19.05.2008.

The argument of the learned counsel for the municipality is that the element of interest is on the higher side and is not tenable and deserves to be reduced. In delayed payments, in cases where money is withheld without just cause or legal justification, interest has to be tempered with penalty.

The award of interest represents at least portion of penal interest added to appear fair and just and compensatory for loss of use of money when it was due. If today, the interest regime has changed then the existing rate of interest on deposits in nationalized banks would need to be

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supplemented by penal element to adjust the proper rate of interest and, therefore, I see no illegality committed by the Court in awarding interest @ 12% p.a. which is on the lower side in the presence of the earlier decree declaring rights of the plaintiff respondent.

No ground is found sufficient or warranted in the present frivolous appeal to interfere with the judgment and decree and the appeal is accordingly dismissed.

03.04.2017  
**mamta**

**(RAJIV NARAIN RAINA)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes  
No