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

**Civil Revision No.2744 of 2018 (O&M)
Date of Decision: 02.08.2018**

**PUNJAB AND SIND BANK AND ANOTHER**
**......Petitioners**

**Vs**

**NARINDER SINGH MANCHANDA ....Respondent**

**CORAM:** ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. R. Kartikeya, Advocate
for the petitioners.

Mr. Prateek Pandit, Advocate
for the respondent.

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***RAJ MOHAN SINGH, J.***

[1]. This revision petition has been preferred against the order dated 06.04.2018 passed by the Judicial Magistrate Ist Class, Jalandhar, vide which objections filed by the petitioners/judgment debtors were dismissed.

[2]. Brief facts of the case are that the plaintiff/respondent filed a suit for declaration to the effect that the order dated 31.10.2003 passed by defendant No.2/petitioner dismissing the plaintiff from the services with retrospective effect, even after retirement of the plaintiff from service on 02.02.2001 was illegal,

wrong and against the Rules.

[3]. In the said suit, it was held by the trial Court that the plaintiff/respondent was dismissed from service after his retirement when he ceased to be an employee of the defendants/petitioners. It was also held that the defendants had no right to take any departmental action against the plaintiff, when he had ceased to be under their administrative control, particularly when nothing was provided in the Rules. It was also observed that though a provision existed in the PCS Rules that even after four years of his retirement action can be taken against an employee, but the defendants could not show any such corresponding Rule in Punjab & Sind Bank (Officer Service Regulation), 1982 for dismissing the employee with retrospective effect. The allegations of serious misconduct were made against the plaintiff and he was allegedly found guilty misusing the public money with dishonest intention as Branch Manager even after applying for Voluntary Retirement Scheme. He allegedly sanctioned 41 loans in a hasty manner.

[4]. The trial Court also observed that before granting him voluntary retirement, it was incumbent upon the higher officers to properly scrutinize the case of the plaintiff by ascertaining his commissions and omissions and should have observed due care and caution. In ultimate consideration of the Court, the

Court found that the defendants had no right to deal the plaintiff departmentally and dismiss him from service with retrospective effect in the absence of any specific provision of law/Rules. It was also observed that the defendants can consider for taking criminal action against the plaintiff in accordance with law. However, no criminal action was taken against the plaintiff. Trial Court passed the decree dated 25.10.2007. The operative part of the same reads as under:-

> *"It is hereby ordered that the suit of the plaintiff is hereby decreed with costs in favour of the plaintiff and against the defendants and decree of declarations is passed by defendants No.2 vide which plaintiff was dismissed from service with retrospective effect is illegal. Null and void and is passed in favour of plaintiff and against the defendants and the defendants are directed to disburse the consequential benefits to the plaintiff as provided under the rules."*

[5]. Evidently, the defendants/petitioners were directed to disburse the consequential benefits to the plaintiff as provided under the Rules. The aforesaid judgment and decree passed by the trial Court was assailed by the defendants/petitioners in appeal before the lower Appellate Court, which was dismissed vide judgment and decree dated 25.10.2008.

[6]. Aggrieved against the aforesaid judgment and decree, defendants/petitioner approached the High Court by way of filing RSA No.4887 of 2009. The said RSA was dismissed by the High Court vide order dated 10.09.2015. The High Court with reference to the Regulation 48(1) and after considering different precedents held that in view of ***UCO Bank and another vs. Rajinder Lal Capoor, 2007(6) SCC 694***, when an employee is allowed to superannuate, no enquiry can be initiated against him and as per ratio of ***Punjab and Sind Bank vs. S. Ranveer Singh Bawa, 2004(4) SLR 9 (SC)*** where an employee had obtained VRS Scheme and before its acceptance sought withdrawal, the Bank can initiate departmental proceedings. It was further held in the said appeal that no such withdrawal of VRS Scheme was made by the plaintiff, therefore, on appreciation of evidence and the regulations governing the terms and conditions which was not found faulted with any illegality or perversity in the impugned judgments passed by the Courts below, the appeal was dismissed.

[7]. I have considered the submissions made by learned counsel for the parties.

[8]. The decree passed by the trial Court had already attained finality. Right of the defendants/petitioners to initiate departmental proceedings was foreclosed by the trial Court

when it was held that the defendants have no right to deal the plaintiff departmentally. Only opportunity was given to initiate criminal prosecution (if any). Instead of initiating criminal prosecution against the decree-holder, the defendants/ petitioners sought to recover the alleged loss by way of withholding dues of the decree-holder without there being any decree passed by the civil Court. The decree granted by the civil Court was not implemented fully, rather an amount of Rs.23,24,376/- payable to the decree holder was withheld by the defendants/Bank.

[9]. In my considered opinion, the petitioners/Bank cannot withhold the amount in question by way of filing objections in the execution. The executing Court cannot go behind the decree which has been upheld upto the stage of Regular Second Appeal. In the execution filed by the decree-holder, the decretal amount of consequential service benefits along with interest has to be calculated by the judgment-debtors. During course of arguments, it transpired that the requisite calculation has not been submitted by the judgment debtors/petitioners.

[10]. In view of aforesaid, this revision petition is found to be meritless. The same is dismissed accordingly. However, the executing Court would invite necessary calculations from the judgment-debtors and thereafter the calculations be put to the

decree-holder for the purposes of assessing due amount along with payable interest as on date and thereafter the executing Court shall proceed to decide the execution in accordance with law.

August 02, 2018 **(RAJ MOHAN SINGH)**
*Atik* **JUDGE**

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