

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4510-2017 (O&M)

Date of decision : 15.5.2018

Rajiv Aggarwal

..... Petitioner

Versus

Sri Guru Ram Dass Hospital Charitable
Trust and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Kapil Kakkar, Advocate for the petitioner.

Mr. B.S. Sudan, Advocate for
Mr. P.K. Sekhon, Advocate for respondents.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 4.3.2017 (Annexure P-8) passed by learned Civil Judge (Junior Division), Amritsar vide which in the execution proceedings, it was held that the decree holder is at liberty to apply to the concerned department i.e. EPF department for releasing of EPF as per rules.

Heard.

It comes out that the Executing Court also observed that the decree holder has himself stated that most of the payments have been made except the above said claim. Therefore, the execution is fully satisfied and was dismissed as such.

The background of the case is that the plaintiff has filed a suit for declaration that he is entitled to salary as per terms and conditions of the employment plus allowances as per the provisions and rules of Guru Nanak Dev University Amritsar as enshrined in University Calender and Punjab Government Rules. He has also sought mandatory injunction for directing the defendants to give his salary, allowances, time scale placements and leave from the date of his appointment. The said suit was decreed vide judgment and decree dated 1.9.2005 by learned Civil Judge (Junior Division), Amritsar and the following decree was passed: -

“In view of my finding on the above issues, the suit of the plaintiff is decreed in favour of plaintiff and against the defendants, with costs, to the effect that the plaintiff is entitled to revision of pay scale w.e.f. 1.1.1996 and time scale placement after 4, 9 and 14 years of service and further that he is entitled to leaves in accordance with the Ordinances laid down by Guru Nanak Dev University. The defendants are directed to pay service benefits to plaintiff considering his revision of pay w.e.f. 1.1.1996 after completing all formalities, positively, within a period of two months, from the receipt of this judgment, failing which, the plaintiff shall be entitled to recover the same by adopting procedure established under law. Decree sheet be prepared. The file be consigned to record room.”

It comes out that now plaintiff-decree holder has retired and question of release of his retiral benefits are in question. Plaintiff is claiming that he is entitled to CPF since he is covered under the CPF Scheme whereas department claims that plaintiff is entitled to EPF.

Learned counsel for the petitioner claims that since decree was for release of service benefits, therefore, the question as to whether he is entitled to CPF or EPF can be gone into in the execution.

I am of the view that the judgment and decree dated 1.9.2005 passed by the trial Court shows that it was regarding releasing the benefits so long the plaintiff is in service. The question of release of retiral benefits was not in issue. Therefore, the question as to which retiral benefits are to be released, cannot be gone into in the execution of the decree dated 1.9.2005. Since, there is a dispute as to whether the plaintiff-decree holder is entitled to EPF or CPF, plaintiff is always at liberty to claim the amount which is being paid by the department and initiate appropriate proceedings to establish his claim that he was entitled to CPF and not EPF. So far as execution is concerned, decree in question has been fully satisfied.

Therefore, I do not find any illegality or infirmity in the order dated 4.3.2017 (Annexure P-8), passed by learned Civil Judge, Junior Division, Amritsar.

Consequently, present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

15.5.2018
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
No