

C.R. No.8225 of 2014 (O&M)
Date of Decision: February 06, 2018

Versus

Ashok Kumar Karkara ..Respondent

Present: Mr. Vikas Singh, Advocate
for the petitioners.

Mr. Pankaj Maini, Advocate
for the respondent.

The present respondent-Ashok Kumar Karkara, who happened to be the Warehousing Manager (since retired) with the petitioner/Punjab State Warehousing Corporation filed suit for declaration against the petitioner, the then defendants regarding his removal from service. The Court of learned Sub Judge, Bathinda partly decreed the suit vide orders dated 24.3.1995. Operative part of the order is as under:-

“In view of my findings on the above issues suit of the plaintiff is partly decreed to the effect that order dated 26.8.91 is void and illegal to the extent that no separate show cause notice was served upon the delinquent employee when his emoluments were restricted to that of subsistence allowance only and the plaintiff is entitled to full salary and allowances for the suspension period along with interest @ 12% P.A . Decree sheet be prepared and file be consigned.”

Thereafter, the present petitioner moved a civil appeal and so was done by the present respondent and both the civil appeals were decided together by the Court of learned Additional District Judge, Bathinda through common judgment dated 11.6.1998, thereby, allowing the appeal of the respondent but dismissed that of the petitioners. Operative part of the order is as under:-

“In view of my above discussions, the appeal filed by Punjab State (No.59 of 14.6.1995) merits dismissal and is dismissed as such with costs, whereas the appeal filed by Ashok Kumar (No.94 of 19.5.1995/RT No.48 of 17.3.1997 against Punjab State succeeds and the suit of the plaintiff stands decreed as prayed for. Decree sheet be prepared.”

Thus, reflects that the suit of the plaintiff stood decreed as prayed for. It is the case of the two sides before this Court in their submissions that the findings have since attained finality and learned counsel for the petitioner to the query of this Court admits that in the execution proceedings out of which the present petition has arisen challenging the order passed therein dated 27.10.2014 Annexure P/7, whereby, attachment of the account of the petitioner no objection to the calculation was made. Learned counsel for the petitioner has sought to rake up the plea that 12% interest P.A. is on the higher side and is impermissible but could not show any law to support his contention. Though, learned counsel for the petitioner has cited judgment in **2013(1) PLR 552 Ram Kishan vs. Har Phool Singh** but the same is in respect of commercial transaction of loan quite distinct from the present matter when as per the own stand of the petitioner these findings have never been challenged till date. Together with the averments of the learned counsel for the respondent

that executing Court cannot go beyond the decree certainly comes to the detriment of the petitioner.

Learned counsel for the petitioner could not convince this Court how the impugned order is bad in law. It was on the basis of statements of account submitted by the two sides after calculation the executing Court has done so. Now at this belated stage, no recourse is open to the petitioner to wriggle out of it.

In the light of what has been detailed and discussed above, no illegality is found in the impugned order. Learned trial Court has certainly remained confined within the domains of law and no fault can be found in the orders in question. Thus, the revision petition being hopelessly without any merits stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 06, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No