

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CM-14120-C-2018 in
CM-12300-C-2018 in/and
RSA-2105-2016 (O&M)
Date of Decision : 17.9.2018

Harbhajan Singh

....Appellant

vs.

Municipal Council through Executive Officer, Fazilka and others

...Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Jitesh Narang, Advocate for
Mr. Rajesh Narang, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

CM-14120-C-2018 in CM-12300-C-2018

This is an application for restoration of application bearing
CM-12300-C-2018.

For the reasons recorded, the application stands allowed.

CM-12300-C-2018

This is an application for restoration of the main appeal.

For the reasons recorded, the same is allowed and the appeal is
heard today itself.

Main Case

This appeal has been filed against the concurrent judgments of
the Courts below dismissing a suit filed by the appellant wherein he had

claimed a sum of Rs. 2,80,000/- odd on account of various retiral dues and on account of interest for late payment of the retiral dues.

It is not disputed that this is the third proceeding in a series of litigations. Prior to that the appellant had admittedly filed two writ petitions in this Court which were disposed of with a direction to the respondents to pass a speaking order and thereafter the speaking order was passed and the appellant filed the instant suit. Both the Courts below having dismissed the suit, the appellant is before this Court.

Learned counsel for the appellant has argued that the appellant had summoned the clerk of the respondents who had deposed that the salary of the appellant at the time of retirement was Rs. 7880/- but the pension was not worked out after considering this amount. In the first place, concededly there is no pleading to this effect in the plaint and the plaint proceeded only on the computation of retiral dues.

Secondly, before the first Appellate Court the case of the appellant was that his basic salary was wrongly taken as Rs.7440/- at one stage, whereas it should have been Rs. 7660/-. Another issue which was raised before the lower Appellate Court was that one fixation which had been granted with effect from 1.1.1986 was wrongly done and it should be with effect from 1.5.1986. Admittedly, even these facts were not pleaded in the plaint.

In the circumstances, the Court came to the conclusion that the appellant is seeking to change his case at different stages. The appellate Court has held that in the speaking order the respondent had dealt with all

contentions which has been raised by the appellant at that point of time. It would not be possible for the Court to permit the appellant to keep changing his case from stage to stage and from case to case.

Consequently, the appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

**17.9.2018
anuradha**

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No