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

**RSA-5885-2018 (O&M)
Date of Decision: 22.10.2018**

The Senior Medical Officer Incharge, and others

..... Appellants

Versus

Dr. Naveen Kumar Sethi

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Rajesh Bhardwaj, Senior DAG, Punjab,
for the applicants-appellants.

SUDIP AHLUWALIA J. (ORAL)

CM-16298-C-2018

For the reasons mentioned in the application, the same is allowed and the delay of 81 days in filing the appeal is hereby condoned.

RSA-5885-2018 (O&M)

1. This appeal is directed against the judgment passed by the Ld. Ist Additional District Judge, Fazilka on 19.04.2018, whereby the earlier judgment and decree passed in favour of the respondent Dr. Naveen Kumar Sethi in Civil Suit No.53-1 of 17.03.2011 on 06.07.2015 decreeing the suit by the Ld. Civil Judge (Junior Division), Abohar, has been dismissed.

2. The respondent's prayer for recovery of an amount of ₹89,761/- as arrears of his Leave Encashment for a period of 155 days had been allowed by both the Courts below, since the same was not disbursed to him by the appellants following his resignation from service as a Medical Officer of 1992 Batch, after he had already put in more than 10 years of such service.

3. The contention raised on behalf of the appellants is that in terms of the Punjab Civil Services Rules, Volume-I, there is no express provision to the effect that retiral benefits are also grantable to those Government servants, who voluntarily resign from service.

4. *Ex facie* such submission is untenable, since by now it is settled law that “an employee is entitled to pension and other retiral benefits even after premature retirement from service and voluntary resignation from service since those eventuality have the same effect, i.e., one is retiring.”

[See “*State of Punjab Vs. Gurkirat Singh*”, 2002 (3) SCT 623, “*Ganga Bishan Vs. State of Haryana and others*”, 1994 (3) SCT 154 (P&H): 1994 (4) SLR 59, “*Mehar Singh Vs. State*”, 2003 (1) Service Cases Today].

5. Ld. Counsel for the appellants-State has been unable to cite any binding decision to the contrary against the aforesaid citations which by now have attained finality.

6. No merits.

7. Dismissed.

22.10.2018

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No