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

CR No. 8483 of 2017

Date of Decision: 21.05.2019

The State of Punjab through Secretary and others

-Petitioners

Vs

Kewal Krishan Arora

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Rukhsaar Dhindsa, A.A.G., Punjab,
for the petitioners.

Mr. Prateek Pandit, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

This revision petition has been preferred against the order dated 18.08.2017 passed by Additional Civil Judge (Senior Division), Kapurthala vide which objections filed by the judgment debtor-petitioners were dismissed.

Plaintiff- decree holder filed a suit for mandatory injunction directing the defendants-petitioners to regularize the period of suspension from 23.07.2003 to 27.02.2006 as duty period for all intents and purposes and to re-fix the pay of the plaintiff after giving benefits of increments earned during the aforesaid period and also to give benefits of step up of 08 years of service in the Science Master Cadre and further benefit of 08

years of service in the Lecturer Math Cadre along with all consequential benefits with interest @ 18% per annum.

Defendants were duly served in the suit but despite that, they did not file the written statement and their defence was struck off by the trial Court.

The suit was ultimately decreed for mandatory injunction, directing the defendants to regularize the suspension period from 23.07.2003 to 27.02.2006 as the duty period and to re-fix the pay of the plaintiff after granting benefits of increments during the aforesaid period together with proficiency step up after 08 years in Science Master Cadre and proficiency step up of 08 years service in Lecturer Math Cadre with consequential benefits with interest @ 8% per annum.

The suit was decreed with costs vide judgment and decree dated 08.06.2011. Defendants-petitioners did not file any revision petition against the order vide which their defence was struck off. Judgment and decree dated 08.06.2011 passed by the trial Court has already attained finality.

In execution of the decree, defendants-petitioners have filed objections with regard to entitlement of the decree holder to claim benefit of adhoc service while computing benefits arising out of judgment and decree dated 08.06.2011.

The objections may give rise to some conflicting

opinion but fact remains that judgment and decree dated 08.06.2011 has already attained finality and the Executing Court cannot go beyond the decree.

In view of facts and circumstances of the case, it can be noticed that the defendants were impleaded through the Director Secondary Education and District Education Officer.

By not contesting the suit and by not filing written statement in time, the defendants have suffered the consequences of decree.

No interference is called for in the impugned order. However, in view of aforesaid position, liberty is granted to the defendants-petitioners to fix personal responsibility of the erring officer who had derelicted in not contesting the suit and allowed the suit to be decreed without lawful contest.

In case, the officer is found to be guilty of non-performance of his duty, then the amount in question may be recovered from him in accordance with law.

Dismissed.

21.05.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No