

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

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C.M. NOS.4465-4466 C OF 2019 &

R.S.A. NO.1657 OF 2019

DATE OF DECISION: APRIL 01, 2019

Vice Chancellor, C.C.S.HAU, Hisar

.....Appellant

VERSUS

Ram Kumar

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vishal Nehra, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.4465-C of 2019

Application is allowed as prayed for subject to all just exceptions.

Exemption is granted from filing certified/true typed copies of the judgments & decrees and grounds of appeal as Annexures A-1 to A-3.

C.M. No.4466-C of 2019 & R.S.A. No.1657 of 2019

Appellant has approached this Court, challenging the order dated 04.12.2018 passed by the Additional District Judge, Jhajjar, vide which the appeal of the respondent-plaintiff, holding him entitled to interest @ 7-1/2% per annum on the delayed payment of gratuity, balance gratuity as well as arrears of pension from three months of the date of retirement till the date of actual payment with a further direction to release interest amount

within a period of two months from the date of judgment and decree.

It is the contention of learned counsel for the appellant that the suit, which was preferred by the respondent-plaintiff, was filed on 03.02.2011, which was much beyond the limitation period as he had retired on 31.05.2004. He further contends that although the benefits, which have been claimed by the respondent-plaintiff, have been released to him during the pendency of the civil suit, there was no question of granting him interest. Rather, the trial Court had proceeded to dismiss the civil suit of the respondent-plaintiff on the ground of limitation. He contends that the appellate Court has over looked this aspect and has proceeded to grant interest on the delayed payment by proceeding on the assumption that the benefits have been released by the University during the pendency of the civil suit and, therefore, the delay stood condoned. He further contends that the appellant is aggrieved by the grant of interest by the lower appellate Court vide judgment and decree dated 04.12.2018 on the retiral benefits as referred to above. He, thus, contends that the impugned judgment of the lower Appellate Court cannot sustain and deserves to be set-aside.

I have considered the submissions made by learned counsel for the appellant and with his assistance have gone through the impugned judgment passed by the lower Appellate Court but do not find myself in agreement with the submissions of counsel for the appellant.

It is true that if the suit, which has been preferred, was beyond the period of limitation if taken from the date of retirement but keeping in view the fact that the retiral benefits, including pension, are a recurring loss to the employee to which he was entitled to on monthly basis, the period of limitation would not come in the way as far as the respondent-plaintiff is

concerned as the claim of the respondent as put forth in the civil suit has been admitted and even released during the pendency of the suit before the trial Court. The interest, which has been granted on the delayed payment, thus, cannot be faulted with.

The judgment and decree as passed by the lower appellate Court dated 04.12.2018 is based upon proper appreciation of pleadings and admitted facts on the part of the appellant-defendant wherein the appellant had proceeded to grant the benefits as claimed in the civil suit during the pendency of the said suit before the trial Court.

The present appeal is devoid of merit and the same is, therefore, dismissed.

Since the main appeal stands dismissed, no orders are required to be passed on C.M. No.4466-C of 2019.

April 01, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No