

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

**Civil Writ Petition No.14720 of 2017
Decided on : 08.07.2019**

Jagga Singh, Ex. Constable

... Petitioner

Versus

Union of India and others

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Hemen Aggarwal, Advocate
for the petitioner.

Mr. Ashish Rawal, Advocate
for the respondents.

G.S. Sandhawalialia, J. (Oral)

The petitioner in the present writ petition filed under Article 226/227 of the Constitution of India, seeks interest on the arrears of disability pension from the period from 12.08.1990 to 31.03.2016, which has been calculated ₹14,89,930/-.

2. In the considered opinion of this Court, the said relief cannot be granted, in view of the facts, which have led to the grant of such disability pension at the first instance.

3. Admittedly, a civil suit was instituted on 12.08.1993 for the benefit of disability pension alongwith interest @ 18%, which was dismissed on 23.01.1996 (Annexure P-1). However, the appeal was allowed on 26.04.2001 (Annexure R-1) by the Additional District Judge, Bathinda, who decreed the suit and also granted the benefits of the arrears for the period of 3 years preceding the filing of the suit. However, benefit of interest as such was not granted. The relevant portion of the judgment reads

as under:-

“Consequently, he is granted the relief of a declaration that he is entitled to disability/medical pension benefits for a period of limitation i.e. w.e.f. 3 years immediately preceding the filing of this suit on 12.8.1993 and accordingly his claim made through this suit stand decreed with costs. Consequently the impugned judgment and decree dated 23.1.1996, being against the facts of the case as well as the relevant law, stands set aside and reversed. A decree in appeal be prepared. Lower Court file be returned and file of this Court be consigned to the records room.

Pronounced in open Court today the 26th day of April, 2001.”

4. The order was upheld by this Court in **RSA No.5017 of 2001** on 27.03.2015 (Annexure R-2) in the appeal filed by the respondents. The petitioner did not file any cross-objections for the benefit of the interest element, which had not been granted. The relevant portion of the order dated 27.03.2015 reads as under:-

“So, the consistent view of this Court as well as Hon'ble the Supreme Court is that once an employee had joined his service and he was found medically fit and thereafter, if he sustained any injury while in service, it would be attributable to his service and thus, he could not be denied the benefit of disability/medical pension on the ground that he was not medically fit.

The judgment and decree dated 26.04.2001 passed by learned Addl. District Judge, Bathinda do not suffer from any misreading of facts. No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed.”

5. Thereafter, the payments as such were made and the execution whereby arrears of pension were claimed was dismissed by the Executing Court on 18.07.2016 (Annexure R-6) by noticing that there were no directions for issuing regular pension. It was held that the Executing Court cannot go beyond the decree. The relevant portion of the said order reads as under:-

“Today, decree holder has suffered statement that he has received disability pension arrears for the period 12.08.1990 to 31.03.2016. He has also stated that he is not receiving his pension regularly. Perusal of judgment and decree dated 26.04.2001 reveals that present decree is regarding disability of pension benefits of the decree holder. The Trial Court has not ordered regarding regular pension in the judgment and decree. It is settled law that executing Court cannot go beyond the decree. Therefore, no direction to JD will be issued regarding regular pension. Since, the disability/pension arrears has been paid to decree holder as per decree. Therefore, present execution application is dismissed as fully satisfied. File be consigned to record room.”

6. In the interim period the petitioner had approached this Court for the said relief by way of filing the present writ petition. Counsel has vehemently submitted that since the interest as such had been stayed from 2001 onwards in the the regular second appeal, the payment was made thereafter a delay as such, the petitioner is entitled for the interest. The said argument is not liable to be accepted. Rather the petitioner had sufficient opportunity to file cross-objections in the intervening period of 14 years to get the benefit of interest, which he had initially claimed, but failed to do so.

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7. It is apparent that the principle “*actus curiae neminem gravabit*” will thus come into to play that “the act of the Court” will not harm any party. The respondents cannot be faulted on account of the appeal having been pending before this Court.

8. It is also settled principle that the benefit cannot be granted beyond what has been ordered by the Civil Court. Even otherwise the writ petition would not be maintainable in such facts and circumstances, once the petitioner as such had opted for the redressal of his grievances by filing a civil suit. Merely, because other persons might have been granted the benefit of interest, would not entitle the petitioner for the same benefit, as the petitioner has litigated for his rights and the respondents only have made payments in accordance with the judgment *inter se* the parties.

9. Accordingly, there is no merit in the present writ petition and the same is, hereby, dismissed.

JULY 08, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No