

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

-.-

RSA 2586 of 2011 (O&M)

Date of decision: 13.09.2019

Shivcharan Singh

.....Appellant

Versus

Punjab State Electricity Board etc.

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. H K Brinda, Advocate
for the appellant

Ms Geeta Sharma, Advocate
for the respondents

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Rekha Mittal, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for declaration that the appellant/plaintiff is entitled to interest @ 18% per annum on arrears of pay, paid vide order No.854 dated 06.05.2004 from due date till its payment was dismissed by the trial Court vide judgment and decree dated 03.10.2008 that came to be affirmed in appeal by the District Judge, Rupnagar vide judgment and decree dated 24.01.2011.

Counsel for the respondents, in compliance with order dated 26.08.2019 passed by this Court, would inform that the appellant has been designated as Foreman HP Welding vide order dated 05.08.2011, in view of the judgment and decree passed in favour of the appellant in the previous

litigation.

Counsel for the appellant would argue that since the respondents have taken a decision to accord him designation as Foreman HP Welding in place of HP Welding, there is no question of entitlement of the respondents to recover any amount from appellant, in view of consent/undertaking Ex.D-4, pressed into service by the respondents to deny him payment of interest on arrears of Rs.7,70,882/- upto the year 2004. It is further submitted that since the appellant has been deprived of due amount with regard to arrears of pay and the said amount has been utilized by the respondents, he is entitled to interest, to be calculated from the date a particular amount became due till paid.

Counsel for the respondents, on the contrary, would support findings recorded by the Courts by relying upon undertaking Ex.D4.

Be that as it may, it is undisputed position of the case that the matter with regard to according designation as Foreman HP Welding in place of HP Welding was decided in his (appellant's) favour and eventually the respondents passed order dated 05.08.2011 to grant him designation of Foreman HP Welding in the pay scale of Rs.5500/9400 in the light of direction of the Court. In the given circumstances, any such undertaking given by the appellant Ex. D4 becomes inconsequential for deciding the question of entitlement of the appellant to interest on delayed payment of arrears of pay to the tune of Rs.7,70,882/-. Since the appellant has been deprived of arrears of pay from the date it became due till actual payment in the year 2004 and the amount has been retained by the respondents, the appellant shall be entitled to interest @ 8% per annum from the date the

amount became due till it is actual paid.

In view of what has been discussed hereinbefore, the appeal is partly allowed. Suit of the appellant is partly decreed in the aforesaid terms. Judgments and decrees passed by the Courts are modified accordingly.

(Rekha Mittal)
Judge

13.09.2019
Mohan Bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No