

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
225**

RSA-3651-2018

Date of decision: 03.07.2019

ONKAR SINGH

...APPELLANT

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. R.K.Arya, Advocate ,
for the appellant.

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AUGUSTINE GEORGE MASI, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Additional Civil Judge (Senior Division), Gurdaspur dated 01.09.2017, whereby suit for declaration preferred by the appellant-plaintiff claiming interest @12% per annum w.e.f. August, 1990 till actual realization i.e. July, 2004 on pension and arrears of pension along with future interest stands dismissed, appeal against which preferred by the appellant stands dismissed by the Additional District Judge, Gurdaspur on 12.03.2018.

It is the contention of the learned counsel for the appellant that the right of the appellant for grant of interest on the delayed payment could not have been denied to him by the respondents. His further contention is that merely because the delay on the part of the appellant-plaintiff in approaching the trial Court by filing a civil suit for the benefit between the period 1990 to 2004, the appellant-plaintiff cannot be deprived of the same as it is the loss which he has suffered because of the inaction on the part of

the respondents as he has been approaching the respondent-department for the said benefit during the period of interregnum but without any result. He, therefore, prays that the appeal preferred by the appellant-plaintiff be allowed by setting aside the judgments and decree passed by the Courts below.

I have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the records of the case.

It is an admitted position that the appellant had earlier filed a civil suit claiming therein arrears of pension, gratuity etc. including interest, which was dismissed by the trial Court as well as the First Appellate Court. In an appeal preferred by the appellant i.e. RSA No. 3431 of 1997, this Court allowed the same on 16.07.2003. The relief granted by this Court to the appellant reads as follows:-

“ Accordingly, the present appeal is allowed. The judgments of the learned Courts below are set aside. It is declared that the plaintiff would be entitled to the fixation of his pension, in accordance with rules, and also the arrears of his pension for a period of three years two months prior to the date of filing of the suit which was filed on October 12, 1993. It is further directed that defendants-respondents would process the case of the plaintiff and make the necessary payments to him within a period of three months from the date a certified copy of this order is received by them.”

A perusal of the above order would indicate that although the appellant-plaintiff was entitled to the declaration for fixation of his pension

in accordance with the Rules and also the arrears of his pension for a period of three years two months prior to the date of filing of the civil suit, which was filed on 12.10.1993, no interest was granted to the appellant-plaintiff. It is admitted by the counsel for the appellant that interest was claimed in the earlier civil suit, which has not been granted by the Court,

If that be so, the present suit would not be maintainable. That apart, it is also admitted by the counsel for the appellant that as per the judgment passed by this Court in RSA No. 3431 of 1997 dated 16.07.2003, arrears of pension and other benefits were released to the appellant-plaintiff in the month of July, 2004.

Thus, filing of the present suit by the appellant-plaintiff for interest on 10.02.2016 can itself be not entertained as it would be barred by limitation being delayed inordinately.

In view of the above, the judgments and decree, as passed by the Courts below, cannot be faulted with and the appeal deserves dismissal as there is no illegality in the orders passed by the Courts below which do not call for any interference by this Court.

In view of the above, the present appeal is dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

July 03, 2019

pj

WHETHER SPEAKING/REASONED: YES/NO

| WHETHER REPORTABLE : YES/NO