

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

201

1. Regular Second Appeal No.5921 of 2017 (O&M)
Date of Decision: August 28th, 2019

The State of Haryana through Collector, Sirsa and others
...Appellants

Versus

Ami Chand Sihag
...Respondent

2. Regular Second Appeal No.1783 of 2018 (O&M)

Ami Chand Sihag
...Appellant

Versus

The State of Haryana through Collector, Sirsa and others
...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ravi Partap, Assistant Advocate General Haryana,
for the appellants (in RSA No.5921 of 2017)
for the respondents (in RSA No.1783 of 2018).

Mr. Sushil Kumar Verma, Advocate
for the appellant (in RSA No.1783 of 2018)
for the respondent (in RSA No.5921 of 2017).

AUGUSTINE GEORGE MASIH, J.

CM No.15546-C-2017 in RSA No.5921 of 2017

Prayer in this application is for condonation of delay of 63 days
in filing the appeal.

Notice of the application has already been issued but no reply
to the said application has been file.

Keeping in view the reasons which have been assigned for the
delay in filing the appeal, which explains the said delay and the same is
supported by an affidavit of the Special Secretary to Government of
Haryana, Development and Panchayats Department, this application is
allowed.

Delay of 63 days in filing the appeal stands condoned.

CM No.4859-C-2018 in RSA No.1783 of 2018

Prayer in this application is for condonation of delay of 23 days in re-filing the appeal.

For the reasons mentioned in the application, which is duly supported by the affidavit of applicant-appellant-Ami Chand Sihag, the same is allowed.

Delay of 23 days in re-filing the appeal stands condoned.

CM No.5381-C-2018 in RSA No.5921 of 2017

Prayer in this application is for exemption from filing certified copies of Annexures A-1 to A-5 and placing on record typed copies of the same.

Application is allowed subject to just exceptions.

Exemption, as prayed for, is granted.

Typed copies of documents Annexures A-1 to A-5 is taken on record.

CM No.4860-C-2018 in RSA No.1783 of 2018

Prayer in this application is for exemption from filing the certified and typed copy of the decree sheet of impugned judgment dated 17.08.2016 passed by learned Additional Civil Judge (Senior Division), Sirsa.

Application is allowed subject to just exceptions.

Exemption, as prayed for, is granted.

Main Case

Challenge in *RSA No.5921 of 2017* titled as *The State of Haryana through Collector, Sirsa and others Versus Ami Chand Sihag* is to

the judgment and decree dated 07.07.2017 passed by the Additional District Judge, Sirsa, whereby the judgment and decree dated 17.08.2016 passed by the Additional Civil Judge (Senior Division), Sirsa, partly decreeing the suit of respondent-plaintiff-Ami Chand Sihag with costs and further entitling him to gratuity amount after considering his length of service for a period of 28 years, 1 month and 26 days along with interest at the rate of 9% per annum from the date of retirement till the date of payment, was modified to the extent that interest awarded stood increased from 9% to 15% per annum, whereas in *RSA No.1783 of 2018* titled as *Ami Chand Sihag Versus State of Haryana and others*, challenge is to the judgment and decree dated 17.08.2016 passed by the Additional Civil Judge (Senior Division), Sirsa, denying him the benefit of interest on delayed payment on the other pensionary benefits. On an appeal preferred by this appellant, interest has been increased at the rate of 15% per annum from 9% per annum only on gratuity and not on the other retiral benefits. Nutshell in this appeal is for prayer that the interest be increased upon the remaining retiral benefits also.

2. Having considered the submissions made by the counsel for the parties and on going through the records of the case, the claim of respondent-plaintiff-Ami Chand Sihag has rightly been considered by the trial Court and granted interest at the rate of 9% per annum only on the amount of gratuity from the date of retirement till the date of release. As regards the claim of interest on other retiral benefits, the said aspect has been duly considered and on the basis of the pleadings and the evidence brought on record, it stands established that the amount of retiral benefits was withheld because of the departmental inquiry which was pending

against appellant-Ami Chand Sihag. On the conclusion of the departmental inquiry, the amount due on the retiral benefits including gratuity was released to him along with interest equivalent to the interest granted on General Provident Fund, which amount has also been duly paid by the department to plaintiff-Ami Chand Sihag, which fact has not been disputed. Therefore, no interference in this regard is called for.

3. As regards the judgment dated 07.07.2017 passed by the Lower Appellate Court is concerned, interest of 15% which has been granted on the delayed payment of gratuity amount, is not sustainable keeping in view the fact that the interest as payable on delayed payment of gratuity is 8% per annum as per the Instructions dated 22.05.2019, which has been produced and grant of 9% per annum interest would, therefore, cover the lapse on the part of the department. Interest at the rate of 15% per annum as awarded by the Lower Appellate Court is unsustainable and, therefore, deserves to be set aside as no reason whatsoever for granting such exceptionally high interest has been culled out.

4. In view of the above, RSA No.5921 of 2017 is allowed by setting aside the judgment and decree dated 07.07.2017 passed by the Additional District Judge, Sirsa, restoring the judgment and decree passed by the Additional Civil Judge (Senior Division), Sirsa, on 17.08.2016.

5. *RSA No.1783 of 2018* titled as *Ami Chand Sihag Versus State of Haryana and others* is hereby dismissed.

August 28th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No