IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202 **Civil Revision No.3743 of 2019**
Decided on : 02.08.2021

C.R. Darbhanga

... Petitioner

Versus

The Punjab State

... Respondent

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

Present: Dr. Deepak Jindal, Advocate for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

(The proceedings are being conducted through video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The petitioner in the present revision petition filed under Article 227 of the Constitution of India seeks the untenable demand of compound interest in the execution proceedings on account of the delay in disbursement of his retiral dues, while challenging the order dated 12.07.2018 (Annexure P 2).

Counsel for the petitioner has vehemently submitted that while decreeing the suit of the appellant, the lower Appellate Court had noticed that the appropriate rate of interest was 8%, which was awarded to him. It was further observed that if the amount was deposited in his GPF Account, he would have earned interest @ 8% per annum thereon.

It is, thus, the argument of the counsel for the petitioner that if the benefit of the said observation is given, he would necessarily have to be awarded the compound interest, which is given in the case of GPF Account. It is further contended that the claim was for compound interest in the suit. However, the said argument is without any basis. It is to be seen that the issue framed was only qua claim of interest @ 12% per annum and it was also open to the petitioner to seek amendment of the issues at that point of time, which he never raised.

Admittedly, the suit of the plaintiff for mandatory injunction for payment of the outstanding retiral dues had been dismissed by the Civil Judge (Junior Division), Jalandhar on 08.11.2011. In the suit the issue framed was as to whether the plaintiff was entitled for recovery of Rs.2 lakhs alongwith interest @ 12% per annum as leave encashment. He had also claimed gratuity amount of Rs.3,37,590/- alongwith interest. The amounts as such were paid during the pendency of the civil suit on 05.07.2010 and 30.07.2010. In such circumstances, the lower Appellate Court as such had granted the benefit of 8% interest on the retiral dues. Accordingly, a sum of Rs.4,86,678/- was paid during execution by way of demand draft dated 21.05.2015, but the petitioner not being satisfied claimed another sum of Rs.6,10,255/-, on the basis that compound interest should have been levied.

Earlier the application for the grant of said benefit dated 16.11.2015 had been dismissed on 08.05.2017, which order was never challenged as such and reads as under:-

> "I have perused the case file. As per the judgment and decree dated 13.10.2014 passed by the learned Appellate Court, the suit of the plaintiff has been partly decreed to the effect that defendants/judgment debtors have been directed to make the payment of interest at the rate of 8% per month on the amount of retiral benefit, on which the payment has been delayed from the date of payment became due till its actual realization. Nowhere in the said finding, it has been mentioned that decree holder is entitled to the payment of compound interest. As such the application preferred decree holder for payment of compound interest is hereby declined."

In spite of that in the execution petition another demand was made and the same issue was argued again and resultantly the impugned order dated 12.07.2018 (Annexure P-2) came to be passed. The Executing Court came to the sound reasoning that as per the settled principle it cannot go behind the decree and has no jurisdiction to alter or modify the same. Still not being satisfied, the appeal as such which was not maintainable, was filed before the Additional District Judge, Jalandhar, which was dismissed on 29.01.2019 (Annexure P-3). It is in such circumstances, the present revision petition has been filed.

The sequence of events thus would go on to show that on account of granting the benefit by the Additional District Judge, the issue has been time and again raised at all levels. The claim in the suit itself for compound interest was never granted and never agitated before the higher forum, but unfortunately, the petitioner remains dissatisfied and the Courts below as well as this Court are forced to deal with such unnecessary litigation. However, since the petitioner is a retired employee since 30.04.1999, this Court does not deem it fit to impose costs upon him for wasting the time not only of this Court but also of the lower Courts.

Accordingly, there is no merit in the present revision petition and the same is dismissed.

(G.S. SANDHAWALIA)
August 02, 2021 **JUDGE**
Naveen

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No