

CM-2542-C-2021 ;
CM-2543-C-2021 in/and
RSA-446-2021

2023:PHHC:076320

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(287)

CM-2542-C-2021 ;
CM-2543-C-2021 in/and
RSA-446-2021
Date of Decision : 25.05.2023

State of Punjab and others

...Appellants

Versus

Baldev Singh Brar

...Respondent

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. Gurpreet Singh, Additional Advocate General, Punjab
for the appellants.

Mr. Ajay Pal Singh, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

CM-2542-C-2021

Present application has been filed for seeking condonation of
delay of 214 days in filing the appeal.

Keeping in view the averments made in the application,
which are duly supported by an affidavit, the same is allowed and delay
of 214 days in filing the appeal is allowed.

RSA-446-2021

1. The present regular second appeal has been filed challenging
the judgment and decree of the trial court by which the suit filed by the

respondent-plaintiff has been allowed and 12% interest has been granted on a payment of ₹1,10,495/- from 31.01.2005 to 31.03.2012, which judgment has been upheld by the lower appellate court by the judgment and decree dated 20.05.2019.

2. Learned counsel for the appellants-defendants argues that in the present case, the respondent-plaintiff was compulsorily retired from service by way of imposing punishment vide order 06.02.1996. At the time, when the respondent-plaintiff retired, there was a recovery of ₹1,76,361/- pending against him, which was imposed upon him vide order dated 05.05.1995 in pursuance to the charge-sheet dated 06.02.1992. Apart from the compulsory retirement order dated 06.02.1996, further recovery of ₹41,745/- was also imposed to be recovered from the respondent-plaintiff. The order dated 05.05.1995 was challenged by the respondent-plaintiff before the appellate authority and vide order dated 14.01.2009, the said punishment of recovery was set-aside and direction was given that in case any retiral benefit is pending to be released to the respondent-plaintiff, the same be released. It may be noticed that as per the department, only GPF was required to be paid, which benefit has already been paid to the respondent-plaintiff on 12.07.2005 amounting to ₹36,023/-.

3. It may be noticed that as the respondent-plaintiff had retired from service on 06.02.1996 and the GPF amount of ₹36,023/- was paid to him on 12.07.2005, the respondent-plaintiff claimed interest on the said

delayed payment of GPF amount, which payment of interest amounting to ₹67,502/- was released by the department on 19.03.2012 i.e. interest was paid for the intervening period for which the said benefit was withheld i.e. 06.02.1996 ti 12.07.2005.

4. Feeling aggrieved against the payment of interest only upto the year 2005 when the GPF was released, the respondent-plaintiff filed a civil suit claiming that once the interest was paid in March, 2012, he is entitled for interest on the GPF upto March, 2012 and not upto the date when the principle amount of GPF was released i.e. 12.07.2005.

5. The said suit filed by the respondent-plaintiff was allowed by the trial court by the judgment and decree dated 17.10.2012 by allowing the grant of interest on a payment of ₹1,10,495/- (₹36,023/- principle amount of GPF and ₹67,502/- interest) from 31.01.2005 to 31.03.2012 on the ground that as the interest component was paid in March, 2012, the respondent-plaintiff is entitled for interest upon interest upto the said date.

6. Aggrieved against the said decision, an appeal was preferred by the State of Punjab before the lower appellate court, which appeal also came to be dismissed on 20.05.2019, hence the present regular second appeal.

7. Learned counsel for the appellants-defendants argues that the interest can only be granted upto the date when the principle amount has been paid and in the present case, the principle amount of GPF was paid

on 12.07.2005, hence, the interest upon the GPF can only be claimed upto July, 2005 only and not beyond that which amount has already been paid though in March, 2012, amounting to ₹67,502/-. Therefore, the direction by the trial court amounts to grant of interest upon interest, which is not admissible and the said direction is liable to be set-aside.

8. Learned counsel for the respondent-plaintiff submits that the total payment i.e. principle amount as well as interest there upon should have been made either in the year 2005 or in the year 2012 so that the respondent-plaintiff could get the lump-sum amount rather than bifurcating the amount of GPF and interest paid on different dates, hence, though the relief granted by the trial court amounts to grant of interest upon interest but in order to compensate the respondent-plaintiff, the said direction is perfectly valid and legal.

9. I have heard learned counsel for the parties and have gone through the record with their able assistance.

10. It is a conceded position that the interest was claimed on the payment of GPF, which payment was actually released on 12.07.2005 amounting to ₹36,023/-. Interest is liable to be paid till the payment of principle amount of GPF, which was concededly paid to the respondent-plaintiff on 12.07.2005, hence, the State was only required to pay interest on the GPF amount from the date of retirement of respondent-plaintiff till the actual payment of the same and not subsequent to thereof i.e. from 06.02.1996 till 12.07.2005. The direction of the trial Court for the grant

of interest even beyond the date when the principle amount of GPF was paid, is without any valid justification.

11. Further, it is a conceded position that the direction given by the trial court, which has been impugned in the present appeal, amounts to grant of interest upon interest, which is not at all permissible. No justifiable reason has come forward as to how, once the principle amount was paid in the year 2005, the interest is still to be paid on the said amount beyond the date of the said payment.

12. Keeping in view the above, the judgments and decrees of the courts below are perverse and have been passed without considering the actual facts, hence, cannot be sustained and are accordingly set-aside. The appeal is allowed. The suit filed by the respondent-plaintiff is accordingly dismissed. Decree sheet be prepared accordingly.

CM-2543-C-2021

As the main appeal has been allowed, the present application stands disposed of.

May 25, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No