

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

(261)

RSA No. 610 of 2021 (O&M)

Date of Decision : 31.01.2023

Haryana State Agriculture Marketing Board and another

...Appellants

Versus

Suraj Parkash

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Padamkant Dwivedi, Advocate for the appellants.

Mr. Sanjiv Gupta, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

The present regular second appeal has been filed against the judgment and decree of the trial court dated 05.01.2019 by which, the suit filed by the respondent-plaintiff seeking interest on the delayed release of the arrears of pay as well as the pensionary benefits has been allowed as well as against the judgment dated 07.02.2020 passed by the lower appellate court, by which, the appeal filed by the appellants-defendants has been dismissed on the ground of limitation itself.

Learned counsel for the appellants-defendants argues that the delay, which was caused in filing the appeal before the lower appellate court so as to challenge the judgment and decree of the trial court dated 05.01.2019 was beyond the control of the appellants-defendants hence, the lower appellate court wrongly denied the benefit of condonation of delay.

Learned counsel for the respondent-plaintiff submits that as per

the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 2474-2475 of 2012 titled as ***Office of the Chief Post Master General and others Vs. Living Media India Ltd. and another***, decided on 24.02.2012, each day's delay has to be counted so as to arrive whether delay in filing the appeal is bona fide or the same was due to the laxity on the part of the litigant and in the present case, the details which have been given in the judgment of the lower appellate court dated 07.02.2020, the delay has not been explained and on the basis of the judgment of the Hon'ble Supreme Court of India, the same has rightly been declined.

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

The judgment of the lower appellate court deals with the reasons taken by the appellants-defendants seeking condonation of delay. The reasons have been given for not accepting the said explanation, which are perfectly valid and legal keeping in view the settled principle of law noticed in the said order itself. No perversity has been pointed out by the learned counsel for the appellants-defendants in the orders passed by the courts below either on facts or on settled principle of law. Keeping in view the above stated facts, no ground is made out for interference by this Court in the regular second appeal.

Even otherwise, the claim of the respondent-plaintiff is for the grant of interest on the delayed release of arrears of the salary as well as pensionary benefits. The respondent-plaintiff retired on 05.12.2007 whereas, the benefits accruing to him on account of the revision of the pay scale as well as that of pensionary benefits, were released much after the

period of two months as settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468**, wherein, it has been held that in case, there is no impediment, the employee is entitled for the release of the pensionary benefits within a period of two months of the retirement, failing which, the employee will be entitled for interest. The relevant paragraph of said judgment is as under:-

“Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement.”

Apart from this, a Coordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355**, had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances,

even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

Keeping in view the above settled principle of law, no impediment has been brought on record to show that there was a valid justification to withhold the benefit for which the respondent-plaintiff was entitled for, for which delay the interest has been allowed by the courts below. The reason being cited that the sanction was received only in the year 2016 to make the payment is no ground to deny the interest as, the grant of sanction was dependent upon the appellants-defendants themselves and in case, they have taken 7 years to grant the sanction, they have rightly been burdened with cost so as to compensate the prejudice, which has been caused to the respondent-plaintiff.

Keeping in view the above, as no perversity in the orders of the courts below has been brought to the notice of this court, no interference is called for by this court in the present regular second appeal even on merits of this case.

Dismissed.

CM-3386-C-2021

As the main appeal has been dismissed, the present application also stands dismissed.

January 31, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No