

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(263)

RSA-4959-2019(O&M)

Date of Decision : 16.05.2023

Manjit Singh

...Appellant

Versus

Punjab State through its Secretary and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajinder Sharma, Advocate for the appellant.

Mr. Gurpreet Singh, Additional Advocate General, Punjab.

Mr. Sanjeev Soni, Advocate for respondent No. 3.

Harsimran Singh Sethi J. (Oral)

1. The present regular second appeal has been filed against the judgments and decrees of the courts below by which, the suit filed by the appellant-plaintiff seeking various benefits as raised in the suit, were declined.

2. At the time of hearing, learned counsel for the appellant-plaintiff submits that either the relief claimed has already been granted or he has instructions not to press any other relief except the grant of interest on the arrears, which was paid to him upon re-fixation of salary keeping in view the Resolution No. 64 dated 29.08.2007.

3. Certain facts may be noticed for the correct appreciation of the issue in hand.

4. The appellant-plaintiff was appointed as Electrician with the

respondents-Municipal Corporation on 01.12.1983. The appellant-plaintiff kept on working on various posts and was promoted as a Junior Engineer on 06.12.2013. While in service, the appellant-plaintiff raised a grievance with the respondent-Municipal Corporation that the pay scale of the post of Electrician was ₹450-800, whereas he was paid the salary as per pay scale of ₹400-600, hence, his pay be re-fixed in a pay scale of Electrician along with all consequential benefits. While the appellant-plaintiff was in service, Resolution No. 64 dated 29.08.2007 was passed by the respondent-Corporation, which Resolution was approved by the Government on 16.05.2012, after which date the benefit of revised pay scale of ₹450-800 along with arrears were extended to the appellant-plaintiff. It has already come on record that the arrears was paid to the appellant-plaintiff by two cheques, one for amount of ₹3,19,535/- dated 06.12.2013 and second for amount of ₹69,319/- dated 08.02.2013 and interest on the said arrears was not paid, thereafter the appellant-plaintiff filed a civil suit after superannuation claiming the interest on retiral benefits as well as on the arrears of salary, which retiral benefits were paid to him in the year 2013.

5. Keeping in view the evidence and facts which came on record, it is clear that the pensionary benefits had already been paid and with regard to grant of interest, the same was declined by the trial court. The judgment and decree of the trial court dated 28.02.2017 was upheld by the lower appellate court vide judgment and decree dated 10.05.2019, hence the present regular second appeal.

6. Learned counsel for the appellant-plaintiff argues that the respondents-defendants themselves passed a Resolution on 29.08.2007,

which has already been approved by the Government for the grant of pay scale of ₹450-800 from the date of appointment and the arrears have already been paid, hence, the appellant-plaintiff was also entitled for interest on the same as non-grant of the benefit at the time of initial appointment was due to the act attributable to the respondent-Corporation and as the relief was only given after a long period of time, the appellant-plaintiff is also entitled for the grant of interest, which claim has not been considered by the courts below in the correct perspective.

7. Learned counsel for the respondents-defendants, on the other hand, submits that once as per the Resolution, which was approved by the Government only arrears were to be paid, the claim of the appellant-plaintiff for the grant of interest has rightly been declined by the courts below.

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

9. The question, which arises for consideration is, whether the arrears of the salary upon re-fixation of his salary in the pay scale of ₹450-800 paid to the appellant-plaintiff in the year 2013 should also carry interest or not. Once, it is a conceded position that the claim of the appellant-plaintiff was conceded by the respondent-Corporation on its own and they found the appellant-plaintiff entitled for the pay scale of ₹450-800 and he had already been paid the arrears, it is clear that the benefits which should have been given to the appellant-plaintiff at the time of initial appointment, was declined due to the act attributable to the respondent-Corporation. Once money belonging to the appellant-plaintiff was retained and used by the department, the appellant-plaintiff is entitled for interest keeping in view

the judgment of a Coordinate Bench of this Court in *J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*. 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.”

10. Keeping in view the above, the judgments and decrees of the courts below qua the declining of the arrears are set-aside. The appellant-plaintiff is also held entitled for interest @ 6% per annum on the arrears of salary upon re-fixation of his pay in the pay scale of ₹450-800. Let the amount for which the appellant-plaintiff become entitled for under this order be calculated and be paid to the appellant-plaintiff within a period of one month.

11. Appeal is allowed in above terms. Decree sheet be prepared accordingly.

CM-14119-C-2019

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

May 16, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No