

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

369

RSA-2268-2013 (O&M)

Date of decision: 11.12.2023

State of Punjab and Others

....Appellants

Versus

Ashok Kumar Chhabra

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Manipal Singh Atwal, DAG Punjab

Ms. Tanya Trehan, Advocate for

Mr. Sandeep Khunger, Advocate for the respondent

AMAN CHAUDHARY. J.

1. Challenge in the instant regular second appeal is to the concurrent findings of facts returned by the Courts below in favour of the plaintiff-respondent in a suit filed by him for declaration to the effect that he is entitled to retiral benefits along with interest @ 18% per annum.

2. Summarily, the facts are that the plaintiff-respondent had retired from Irrigation Department, Punjab on 31.05.2008, after attaining the age of superannuation. He had submitted all the requisite papers for claiming the pensionary benefits well in time, but the matter remained pending due to correspondence between the Department and Accountant General, Punjab. Due to the lapse on their part in not releasing the retiral benefits of the plaintiff-respondent, he had to get a loan for the treatment of his wife being treated in Oswal Cancer Hospital, Ludhiana. He approached the defendant-appellants many times and requested them to release the pensionary benefits to him, but to no avail. It is further submitted that since his retiral benefits have been unnecessarily

delayed for which he is entitled to 18% per annum interest on the same. A legal notice under Section 80 CPC was also served upon the defendants-appellants before filing the suit, which evoked no response.

3. In the written statement filed by the defendant-State, it is stated that the plaintiff-respondent retired on 31.05.2008 and defendant No.2 did not submit his pension case to defendant No.3, 6 months prior to his retirement, as required. Moreover, complete documents were also not furnished along with the pension case.

4. The trial Court after framing the issue decided the suit in favour of the plaintiff-respondent on the grounds that, no vigilance inquiry was pending against him, in view of the clearance given by the concerned department and the date of retirement of an employee is always within the knowledge of the Department, thus, the entire process for finalising his pension and other benefits etc. has to be culminated on the date he retires. Therefore, he was held entitled to all the retiral benefits alongwith interest @ 12% p.a.

5. The lower appellate Court, while affirming the aforesaid findings, dismissed the appeal filed by the State by taking into consideration that delay in releasing the retiral benefits was on part of the Department and by referring to **A.J. Randhawa vs. State of Punjab**, 1997(7) SLR 8, held the interest at the rate of 12% as allowed by the trial Court to be not excessive.

6. Learned State counsel would submit that the Courts below have failed to appreciate the fact that the plaintiff-respondent had submitted incomplete pension papers and that too only two and a half months prior to his retirement. The interest rate is also contended to be on the higher side. He relies on **Dr. Shyam Lal Thukral vs. State of Punjab and others** 2012 SCC OnLine P&H 16577.

7. On the contrary, learned counsel for the respondent would contend

that both the Courts below have rightly assessed the evidence and passed the order, declaring him entitled to interest at the rate of 12% per annum. She thus prays for dismissal of the appeal.

8. Heard learned counsel on either side and perused the record.

9. Indisputably, the plaintiff-respondent was to retire on 31.05.2008 from the appellant-Department on attaining the age of superannuation. Though, he was allowed provisional pension w.e.f. 01.06.2008, however it, along with retiral benefits, was not disbursed timely. DW-1, Satinder Pal in his cross-examination conceded that it was only during the pendency of the suit before trial Court, that the retiral benefits were released on different dates to the respondent and he was drawing regular pension from 01.06.2009. It was rightly held by the trial Court that he was entitled to interest on the delayed payment made after three years, from when the benefits were actually due. Learned first appellate Court also examined the matter in the correct perspective and rightly dismissed the appeal by relying on **A.J. Randhawa** (supra) wherein it was observed by the Full Bench of this Court that, "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. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18%."

10. Following the above footsteps, Division Bench of Allahabad High Court in **Shripati Tripathi vs. State of U.P.** 2011(2) SLR 194, had granted the appellant therein interest @ 12% p.a. on the arrears of salary as well as retiral

benefits, since the same were disbursed to him belatedly and of this Court in LPA-1006-2023 titled as **Ram Kumar vs. State of Haryana and Ors.** dated 08.11.2023, wherein also the rate of interest held to be payable in a case of delayed release of retiral benefits was modified to 12% p.a.

11. The judgment cited by the learned State counsel is of no aid, being distinguishable on facts as it relates to a matter where an FIR was pending against the retired employee, on account of which, the retiral benefits were withheld. Insofar as the present case is concerned, to contend that the delay was on part of the plaintiff, is contrary to the stand taken by defendant No.3-Accountant General, Punjab, in the written statement stating therein that it was defendant No.2-Chief Engineer/Canals, Irrigation Department, who had failed to submit the documents relating to him on time.

12. In view of the above, there being no disregard or misreading of evidence, no illegality or perversity is found in the impugned judgments. Accordingly, the present appeal being devoid of merit, is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

11.12.2023
M.Kamra

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