

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(234+260)

RSA-1781-2018 (O&M)

Date of Decision : 24.03.2023

Managing Director Punjab Water Resources Management and
Development Corporation Limited and another

...Appellants

Versus

Pargat Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ankit Midha, Advocate for the appellants.

Mr. Man Mohan, Advocate for respondent No. 1.

Mr. Rohit Bansal, Senior Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM-8932-C-2022

Present application has been filed for placing on record
synopsis/list of dates and events.

Application is allowed and synopsis/list of dates and events are
taken on record.

CM-4848-C-2018

Application is allowed, as prayed for.

RSA-1781-2018

In the present regular second appeal, the challenge is to the
judgment and decree of the trial court dated 07.12.2015 by which the

appellants-defendants were directed to release the amount of leave encashment as well as amount of the remaining gratuity along with interest @ 9% per annum as well as to the order of the lower appellate court dated 08.01.2018 by which, the judgment and decree of the trial court was modified on an appeal preferred by the respondent-plaintiff to the extent that he will be entitled for ₹54,432/- as the balance amount of gratuity and ₹4,10,520/- as leave encashment along with interest @ 9% per annum starting from 01.08.2012 till realization of the said amount.

Learned counsel for the appellants-defendants argues that though, they have no grievance qua the direction given by the lower appellate court with regard to release of the leave encashment and the remaining out of the gratuity along with interest but keeping in view the change in seniority of the respondent-plaintiff, his pay was required to be re-fixed, which was done and thereafter, certain amount was required to be recovered, adjustment of certain deductions need to be made, which has not been considered by the courts below while allowing the benefit in favour of the respondent-plaintiff.

Learned counsel appearing on behalf of the respondent-plaintiff submits that once upto the date of retirement, his pay was not re-fixed, the appellants-defendants cannot be allowed to recover amount after re-fixation of the salary of the respondent-plaintiff after his retirement.

Learned counsel for the appellants-defendants submits that at the time of retirement, the respondent-plaintiff had given an undertaking that in case, his seniority changes, keeping in view the change in the date of his regular appointment, the department will be free to re-fix his pay and

other pensionary benefits and in fact, keeping in view the judgment of this Court in CWP No. 1267 of 1999 titled as ***Darshana Sharma and others Vs. Punjab State Tubewell Corporation & others***, decided on 26.09.2013, which judgment had come into being after the retirement of the respondent-plaintiff, an order had already been passed in pursuance of the said judgment seeking recovery of ₹96,410/- vide order dated 02.04.2013 as well as recovery of ₹2,05,127/- as ordered vide order dated 13.01.2016 i.e. total recovery of (₹3,01,537/-) which amount was required to be adjusted while calculating the entitlement of the respondent-plaintiff as per the judgment and decree of the court below.

Learned counsel for the respondent-plaintiff very fairly submits that as the said order of recovery of amount already passed has not been impugned, let the appellants-defendants recover the said amount out of the total benefits, which the respondent-plaintiff becomes entitled for in pursuance to the judgment and decree of the lower appellate court but with the condition that the respondent-plaintiff be given liberty to challenge the said order of recovery before the competent court of law in case permissible under law.

In view of the above, the judgment of the court below is modified to the extent that the respondent-plaintiff will be entitled for the amount as directed by the lower appellate court in the judgment and decree dated 08.01.2018 along with interest but with the liberty to the appellants-defendants to adjust the amount liable to be recovered from the respondent-plaintiff in pursuance to the order dated 02.04.2013 and 13.01.2016 now even the said recovery of the amount will be subject to any challenge raised

by the respondent-plaintiff to the same in case, he is aggrieved and is permissible.

Appeal is partly allowed in view of the terms and conditions mentioned hereinbefore.

CM-4849-C-2018 and CM-11620-C-2018

As the main appeal has been partly allowed, the present applications stand disposed of.

March 24, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No