

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA-5600-2017 (O&M)
Date of Decision :18.01.2023

State of Haryana and others

...Appellants

Versus

Jagbir Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, AAG, Haryana for the appellant-State.

Mr. Rajat Mor, Advocate for the respondent.

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Harsimran Singh Sethi, J. (Oral)

CM-14792-C-2017

The present application has been filed for condonation of delay of 42 days in filing the present appeal.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Delay of 42 days in filing the present appeal is condoned.

RSA-5600-2017

In the present regular second appeal, the appellant-State is challenging judgment of the Lower Appellate Court dated 11.07.2017 by which, judgment of the trial Court dated 20.05.2016 has been set aside and the suit filed by the plaintiff-respondent has been allowed so as to grant him interest on the delayed release of pensionary benefits.

Certain facts need to be noticed for appreciating the

controversy in question. The respondent-plaintiff who was in the service of the appellant-State attained the age of superannuation and retired on 31.05.2012 and at that time, a charge sheet dated 04.01.2012 which was issued to him, was pending consideration with the department. After the retirement of the respondent-plaintiff, another charge sheet dated 25.04.2013 was issued to him and keeping in view the pendency of the charge sheet dated 04.01.2012, the leave encashment as well as gratuity of the respondent was withheld by the department and after the charge sheets dated 04.01.2012 as well as dated 25.04.2013 came to be decided on 08.05.2014, punishment of 'censure' was imposed upon the respondent in respect of both the charge sheets. After the conclusion of the disciplinary proceedings in the month of May, 2014, the benefit of gratuity and leave encashment was released to the respondent in July, 2014 i.e. within a period of two months of the conclusion of the disciplinary proceedings. The respondent-plaintiff claimed interest on the delayed release of the benefit of gratuity and leave encashment as the same were not extended to the respondent-plaintiff by the department within the specified time after his retirement. Respondent-plaintiff filed a civil suit claiming the benefit of interest, which civil suit came to be decided on 20.05.2016 by the trial Court and keeping in view the evidence led, it was held that there was no delay in releasing the benefits to the respondent/plaintiff as the same were withheld with a valid justification i.e. due to the pendency of the disciplinary proceedings against the respondent/plaintiff.

The judgment of the trial Court was assailed by respondent-plaintiff before the Lower Appellate Court and the Lower Appellate Court vide order dated 11.07.2017 allowed the appeal holding that once the

respondent-plaintiff had retired on 31.05.2012, there was no valid justification with the department to withhold the benefits of gratuity and leave encashment as the same was the property of the respondent-plaintiff. Hence, the respondent-plaintiff is entitled for interest on the delayed release of the gratuity and leave encashment by the department. The said order of the Lower Appellate Court is under challenge in the present regular second appeal.

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

Learned counsel for the appellant-State argues that interest can only be given to an employee on the delayed release of payment in case there was no valid justification with the department to withhold the retiral benefits whereas, in the present case, it has already come on record on the basis of the evidence that there was a charge sheet dated 14.01.2012 pending against the respondent-plaintiff at the time of his retirement and even after the retirement, another charge sheet dated 25.04.2013 was issued to the respondent-plaintiff, which came to be decided on 08.05.2014 and the respondent-plaintiff was held guilty of the allegations and was imposed punishment of 'Censure'. Learned counsel for the appellant-State submits that keeping in view the said fact, it cannot be said that withholding of the pensionary benefits by the department after retirement of the respondent/plaintiff was contrary to the settled principle of law settled by the Full Bench of this Court in **LPA No.113-2012** titled as **Punjab Civil Supplies Corporation Limited and others vs. Pyare Lal** decided on 11.08.2014.

Learned counsel for the respondent-plaintiff submits that

though, there were proceedings pending against the respondent but it was the duty of the appellant-State to decide the same expeditiously and as the appellant-State took approximately two years time to decide the said charge sheets, respondent-plaintiff has suffered prejudice, which has rightly been compensated by the trial Court by granting interest for the delayed release of the pensionary benefits to the respondent-plaintiff therefore, no interference is needed by this Court qua the order passed by the Lower Appellate Court and the appeal filed may kindly be dismissed.

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

In the present case, it is undisputed fact that on the date when the respondent retired from service i.e. 31.05.2012 there was charge sheet dated 04.01.2012 pending against him. Once, the disciplinary proceedings against an employee is pending, keeping in view the rules governing the service, appellant-State was well within its jurisdiction to withhold the gratuity as well as leave encashment of the respondent, which action of the appellant-State is also supported by the Full Bench of this Court in Pyare Lal (supra).

Learned counsel for the respondent-plaintiff has not been able to dispute the factum of pendency of disciplinary proceedings against the respondent-plaintiff on the date of his retirement as well as rules governing the aspect of withholding the benefit of gratuity and leave encashment in case disciplinary proceedings are pending. That being so, it cannot be said that withholding of benefits of gratuity as well as leave encashment of the respondent-plaintiff by the appellant-State is without any justification or against the rules governing the service or settled principle of law.

Further, this Court has to ascertain whether keeping in view the facts and circumstances of the present case, there was any delay on the part of the appellant-State in releasing the pensionary benefits of the respondent-plaintiff so as to entitle him for interest for the said delay.

It is a conceded position that disciplinary proceedings which were pending against the respondent-plaintiff came to an end on 08.05.2014 and the respondent-plaintiff was held guilty of the allegations and was imposed a punishment of 'Censure' and withheld pensionary benefits were released to the respondent-plaintiff in July, 2014. This fact clearly shows that there was no delay on the part of the appellant-State in releasing the pensionary benefits of the respondent-plaintiff and after the conclusion of the disciplinary proceedings within a period of three months, the pensionary benefits of the respondent-plaintiff which were withheld by the appellant-State were released to him. That being so, it cannot be said that there was an inordinate delay in the release of the pensionary benefits to the respondent-plaintiff so as to entitle him with the grant of interest on delayed released payments.

With regard to the argument of the learned counsel for the respondent-plaintiff that department should have concluded the disciplinary proceedings earlier so that the same should not have caused prejudice to the respondent-plaintiff, nothing has come on record that any grievance was raised by the respondent-plaintiff at any given point of time during the pendency of the disciplinary proceedings hence, it cannot be said that there was a delay on the part of the appellant-State to conclude the disciplinary proceedings, which were pending against the respondent-plaintiff. Hence, the grant of interest by the Lower Appellate Court is without appreciating

the fact that the appellant-State was well within its jurisdiction to withhold the pensionary benefits of the respondent-plaintiff and the same is in consonance with the rules governing the services as well as the settled principle of law. Hence, order dated 11.07.2017 passed by the Lower Appellate Court is set aside and the judgment of the trial Court dated 20.05.2016 is ordered to be restored.

Present regular second appeal stands allowed.

CM-14793-C-2017 and
CM-4049-C-2018

Applications are disposed of.

January 18, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No