

CM-4500-C-2023
CM-4499-C-2023
CM-4503-C-2023 in/and
RSA-1186-2023

2024:PHHC:014433

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(107)

CM-4500-C-2023
CM-4499-C-2023
CM-4503-C-2023 in/and
RSA-1186-2023
Date of Decision : 02.02.2024

Food Corporation of India and others

...Appellants

Versus

Karnail Singh (now deceased) through his Lrs.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sunish Bindlish, Advocate for the appellants.

Harsimran Singh Sethi J. (Oral)

CM-4499-C-2023

Present application has been filed for seeking condonation of delay of 52 days in re-filing the appeal.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed and delay of 52 days in re-filing the appeal is allowed.

CM-4500-C-2023

Present application has been filed for seeking condonation of delay of 73 days in filing the appeal.

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Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed and delay of 73 days in filing the appeal is allowed.

RSA-1186-2023

1. In the present regular second appeal, the challenge is to the judgment and decree of the lower appellate court dated 08.08.2022 by which, the judgment and decree of the trial court dated 08.10.2018 has been modified and the suit filed by the respondent-plaintiff has been partly allowed.

2. Learned counsel for the appellants-defendants submits that the lower appellate Court had held certain deductions made while releasing the pensionary benefits in favour of the respondent-plaintiff as illegal. Learned counsel further submits that the said findings are bad as whatever amount the respondent-plaintiff was entitled for after the retirement, had already been released in his favour.

3. On being asked as to whether, any order has been brought on record to prove that the deductions which were made from the pensionary benefits of the respondent-plaintiff that the said deductions were effected on the basis of an order passed by the department and that too after following due process of law as envisaged, learned counsel for the appellants-defendants has not been able to show any such document which has come on record on the basis of which the deductions from the leave encashment were made by the appellants-defendants. In the

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absence of any such order requiring any deduction to be effected from the
retiral benefits of the respondent-plaintiff, no deductions could have been
made by the appellants-defendants.

4. On being asked to show any perversity in the findings
recorded by the lower appellate court keeping in view the evidence,
which has come on record, learned counsel for the appellants-defendants
has not been able to point out any perversity.

5. In the regular second appeal, the interference can only be
done by this Court in case, the order passed by the courts below are
perverse or are contrary to the evidence on record.

6. In the absence of any perversity being shown by the learned
counsel for the appellants-defendants, no interference is called for by this
Court in the present regular second appeal.

7. Dismissed.

CM-4503-C-2023

As the main appeal has been dismissed, no order is required
to be passed in the present application.

Dismissed.

February 2nd, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No