



RSA-57-2021(O&M)

-1-

233

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-57-2021(O&M)

Date of decision:-06.11.2024

The Managing Director, Haryana State Ware House Corporation and
others

...Appellants

Versus

Jai Krishan

...Respondent

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Padamkant Dwivedi, Advocate
for the appellants.

None for the respondents, despite service.

SUVIR SEHGAL, J.(ORAL)

1. Defendants – appellants are in second appeal before this Court challenging the finding recorded by the First Appellate Court.

2. In brief, facts leading to the filing of the appeal are that respondent – plaintiff, who was working as Technical Assistant with the appellants, retired on 30.11.2010 on attaining the age of superannuation. Pleading that the appellants failed to make timely payment of retiral benefits, he filed a suit for declaration to the effect that order dated

**RSA-57-2021(O&M)****-2-**

233

18.02.2016, whereby he was intimated that the delay in payment is procedural and he is not entitled to interest, is liable to be set aside. Plaintiff also sought interest on the delayed payment and claimed a decree of Rs.1,05,374/- along with future interest.

3. Upon notice, suit was contested by the appellants – defendants by taking various preliminary objections. It was further submitted that the disciplinary proceedings pending against the plaintiff, were kept in abeyance to await the outcome of the FIR and in order to protect the financial interest of the defendants, recovery of Rs.53,682/- was imposed upon the respondent – plaintiff vide order dated 23.12.2009. In appeal, Appellate Authority vide its order dated 08.09.2011 set aside order dated 23.12.2009 while mentioning that the decision in the appeal will have no bearing on the proceedings in the FIR. Still further, it has also been submitted that after the decision of the appeal, an affidavit dated 03.05.2016, was submitted by the plaintiff, whereby he had deposed that in the event of any punishment/recovery inflicted upon him in the criminal case, the amount can be recovered from his pension. A stand has taken by the defendants that the plaintiff had accepted the amount without any objection. The plaintiff did not file any replication and issues were framed on the basis of the pleadings of the parties, who had led evidence in support of their case. After the parties were heard, Trial Court by judgment and decree dated 04.12.2018 dismissed the suit. Appeal preferred by the plaintiff was accepted by learned Additional District Judge, Ambala vide judgment dated 17.09.2019, Trial Court judgment and decree was set aside and the

**RSA-57-2021(O&M)****-3-**

233

defendants were held liable to pay interest @ 9% per annum on the delayed payment. Appellants - defendants are before this Court in the above background.

4. I have heard counsel for the appellants and examined the paper-book with his able assistance.

5. Undisputedly, respondent – plaintiff retired from service on 30.11.2010. Difference of gratuity and leave encashment, amounting to Rs.5,19,899/- was disbursed to him on 05.07.2012 and difference of gratuity, which has been computed to Rs.34,930/- was paid to him on 18.04.2013. Leave encashment amount of Rs.1,38,371/- was paid to him on 29.05.2012 and difference of leave encashment was released on 18.04.2013. The grounds taken by the appellants for the delay in making the payment is the pendency of the disciplinary proceedings. It is a matter of record that disciplinary proceedings concluded with the passing of the order dated 08.09.2011, Ex.D2, by the Appellate Authority, whereby penal order imposing recovery on the plaintiff was set aside. After the passing of the order by the Appellate Authority, there could not have been any possible impediment in the release of the retiral benefits to the respondent - plaintiff. Although an FIR is stated to have been registered against the plaintiff, but despite grant of opportunities by this Court, as is evident from the various interim orders by this Court, appellants have not been able to apprise the Court about its status or pendency. It can, therefore be safely assumed that there is no adverse order against the plaintiff.

6. Respondent – plaintiff is entitled to the retiral benefits,



RSA-57-2021(O&M)

-4-

233

which are legally due to him. It is a settled law that retiral dues are not to be treated as a bounty, but is a valuable right and any delay in its disbursement is bound to attract penalty of interest. Pendency of the disciplinary proceedings, more-so when they have culminated in favour of the employee, cannot be a ground to deny the legitimate dues to the plaintiff. As there has been a delay in disbursal of the dues to the respondent – plaintiff, he is entitled to grant of interest. In **D.D. Tewari (Dead) through Legal Representatives Versus Uttar Haryana Bijli Vitran Nigam Limited and others, (2014) 8 SCC 894**, Supreme Court has granted interest @ 9% per annum on the delayed payment of pension and gratuity from the date of entitlement till the actual payment. Therefore, there is no scope for the reduction in the rate of interest granted by the learned First Appellate Court.

7. For the foregoing reasons, this Court does not find any infirmity or illegality in the judgment passed by the First Appellate Court, which is affirmed.

8. Finding no merit in the appeal, it is dismissed.

9. Pending application, if any, stands disposed of.

(SUVIR SEHGAL)
JUDGE

06.11.2024

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No