

RSA-1449-2005

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1449-2005
Date of order:-11.01.2024

State of Haryana and Anr.

...Appellants

Versus

Sukhbir Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr.Sharad Aggarwal, DAG, Haryana
for the appellants.

Mr.K.D.S. Hooda, Advocate
for the respondent.

SUVIR SEHGAL, J.

1. State - defendant is in appeal before this Court challenging the judgment and decree dated 20.01.2005 passed by the First Appellate Court.
2. Brief facts may be noticed.
3. Sukhbir Singh, plaintiff – respondent filed a civil suit for mandatory injunction claiming that he joined the Indian Army in 1963 and retired in 1981. In the year 1985, he was appointed as a driver in Haryana Roadways and his services were confirmed. By order dated 25.01.2000, he was declared medically unfit and retired from service.

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He was paid some compensation for the remaining service. After submitting several representations for re-fixing his pay as he was entitled to Military service benefits, he filed a suit for mandatory injunction. Despite repeated opportunities, the State – defendants/appellants did not file the written statement and by order dated 13.12.2002, their defence was struck off. Issues were framed and plaintiff examined himself as PW1. After considering the material on record, trial Court by judgment and decree dated 27.03.2004 dismissed the suit. Aggrieved, plaintiff – respondent filed the first appeal, which was accepted and is under challenge herein.

4. I have heard counsel for the parties and considered their respective submissions.

5. While admitting the appeal, this Court framed the following question of law:

“Whether interest can be awarded even if it is not claimed in the suit?”

6. Relevant extract of the judgment passed by the learned Additional District Judge – 2, Jind is reproduced hereunder:

7. In this case PW1 Sukhbir Singh has categorically stated about his Military services. He has stated that he joined in Haryana Roadways as Driver in the year 1985 and retired on 26.01.2000. He has stated that he has no knowledge whether he was given the benefits of Military services or not. He has further stated that his services were satisfactory and he was entitled for additional increments, but his pension has not been revised nor any interest has been paid to him, despite revision order Ex.P1.

He has stated that his pension was to be re-fixed as per revised pay scales.

8. *It was argued by Sh.Wazir Singh, ld. Govt. Pleader that the plaintiff is not entitled for any benefits because his claim was time barred. During the course of argument Sh.J.N. Mittal, ld. counsel for the plaintiff has admitted that the plaintiff has been given the Military benefits vide letter Mark A, but he has not been given the interest on the delayed payment. It is clear from Mark A that the plaintiff was given various benefits in the year 2002 and naturally for the delayed payment plaintiff is entitled to the interest.*

9. *It was argued by Sh.Wazir Singh, ld. Govt. Pleader that Mark A has not been duly proved however it has not been disputed that this letter was issued by the General Manager, Haryana Roadways, Jind. Moreover, there is no pleading of the defendants to contest the present suit.*

10. *Ex.P1 is regarding the revision of the pension of the plaintiff and his pension was accordingly revised. Thus I am of the considered view that the plaintiff is entitled to the interest @ 6% p.a. on the delayed payment.*

11. *In view of my above discussion the present appeal succeeds and the same is hereby accepted with costs. The impugned judgment and decree of the learned trial Court are hereby set aside. The suit of the plaintiff is decreed to the effect that plaintiff is entitled to get interest at the rate of 6% p.a. on the delayed payment of the pensionary benefits as well as entitled to interest at the rate of 12% p.a. on the delayed payment of his salary in*

view of Mark A. Counsel fees is assessed at Rs.1,100/-. Decree-sheet be drawn accordingly. Copy of this judgment along with the record of learned trial Court be sent back and appeal file be consigned to the record-room after due compliance.

7. Evidence brought on the record by the plaintiff – respondent shows that sanction order dated 18.10.2001 was issued sanctioning an amount of Rs.35,148/- as DCRG, which was later increased on account of upward revision of pay. During the pendency of the suit, order dated 30.12.2002 was passed whereby plaintiff – respondent was granted benefit of military service and his pension was also enhanced. It is evident from the above that there has been a delay in the payment of retiral dues as well as the service benefits due to the plaintiff – respondent on account of military service rendered by him. However, the same were illegally withheld by the defendant – State. Since the plaintiff – respondent has been deprived of the salary and other service benefits as and when they fell due and the defendant – State has utilized his money, he is entitled to claim interest. Although there is no specific claim of interest in the suit, but the plaintiff – respondent has specifically made a prayer that any other relief to which he is found entitled may be awarded to him by the Court. Still further, disbursal of service benefits and retiral dues is 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. In view of the above discussion, the substantial of law framed by this Court is answered against the defendant – State and in favour of the plaintiff – respondent.

8. As a sequel of the above discussion, the findings recorded

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by the First Appellate Court are affirmed and the present appeal is dismissed with no order as to costs.

(SUVIR SEHGAL)
JUDGE

11.01.2024

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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No