



**CM-3066-C-2020 in/and
RSA-5294-2016**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(207)

**CM-3066-C-2020 in/and
RSA-5294-2016
Date of Decision : May 21, 2024**

Principal, Dayal Singh College Karnal

.. Appellant

Versus

R.K. Gupta and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. P.S. Bajwa, Advocate, for the appellant.

Mr. Neeraj Goel, Advocate, for respondent No.1.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-3066-C-2020

Present application has been filed for early hearing of the main appeal.

Keeping in view the facts mentioned in the application, which are duly supported by an affidavit, the application is allowed and the main appeal is taken up for hearing today itself.

RSA-5294-2016

1. In the present regular second appeal, the challenge is to the judgment and decree of the trial Court dated 21.09.2013 by which, a direction has been given to release the gratuity of the respondent-plaintiff for the period from 13.07.1960 to 12.06.1988 along with simple interest @ rate of 9% per annum, which judgment has already been upheld by the



lower Appellate Court vide judgment and decree dated 10.05.2016.

2. Learned counsel appearing on behalf of the appellant argues that in the present case, an order was passed dismissing the respondent-plaintiff from service vide letter dated 01.10.1986 and hence, once the respondent-plaintiff has been dismissed from service, no gratuity was admissible to him, which factum has been ignored by the Courts below while granting the relief to the respondent-plaintiff.

3. The second argument being raised by learned counsel for the appellant is that even if it is assumed for the sake of argument that the gratuity is admissible to the respondent-plaintiff but as the said gratuity was never claimed as the respondent-plaintiff remained absent from service and was working abroad, the grant of interest @ 9% is exorbitant and is liable to be reviewed.

4. Learned counsel for the respondent-plaintiff, on the other hand, submits that the order of dismissal of respondent-plaintiff vide letter dated 01.10.1986 was appealed before the authorities concerned and though the appeal was dismissed initially but on a review petition filed, the Financial Commissioner vide order dated 01.03.1988 set aside the order of dismissal of the respondent-plaintiff from service and converted the punishment into stoppage of two increment with cumulative effect, which order of the Financial Commissioner was challenged by the respondent-plaintiff by filing CWP No.6000 of 1988, which writ petition has already been dismissed vide order dated 03.11.2004 hence, once, the respondent-plaintiff dismissal from service has already been modified, the grant of benefit of



gratuity by the Courts below is perfectly valid and legal.

5. Learned counsel for the respondent-plaintiff further submits that even the grant of interest to the respondent-plaintiff is valid as the amount belonging to the respondent-plaintiff has been kept by the appellants and use to their benefits.

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

7. As per the facts which have been stated hereinbefore and have also been brought on record, the benefit of gratuity has only been extended to the respondent-plaintiff on the ground that the order of dismissal from service dated 01.10.1986 has already been set aside by the competent authority and the said order of dismissal was modified with the punishment of stoppage of two increment with cumulative effect. That being the factual position, it cannot be said that the orders passed by the Courts below granting the benefit of gratuity to the respondent-plaintiff for the period in question i.e. from 13.07.1960 to 12.06.1988 is any way perverse to the evidence or the facts on record hence, the same needs no reconsideration in the present appeal.

8. With regard to the argument that the benefit of interest has been granted to the respondent-plaintiff and that too at an exorbitant rate, the same needs consideration by this Court.

9. It may be noticed that the respondent-plaintiff never claimed the gratuity for the period immediately after leaving the institution. It has also come on record that the respondent-plaintiff was working abroad and



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had only claimed the benefit of gratuity by filing civil suit which was filed in the year 2012. That being so, once, no claim was raised to the gratuity starting from the year 1984 when the respondent-plaintiff left the job of the appellants, the grant of interest from the said date has been granted by the Courts below without appreciating the correct facts.

10. Once, the claim was raised by the respondent-plaintiff to the gratuity only in the year 2012, the interest on the gratuity can only be granted to the respondent-plaintiff from the year 2012 only and not from the date the same accrued in the year 1984.

11. Not only this, the Courts below have granted 9% interest. The jurisdiction to grant interest is well within the Civil Court keeping in view Section 34 of the CPC but the interest has to be granted on bank rate or in the absence of any bank rate @ 6% per annum. No record/evidence has been pointed out by the learned counsel for respondent-plaintiff that at the relevant time, the bank rate was 9%, which has been awarded in favour of the respondent-plaintiff. In the absence of any such record, the interest should have been granted @6% per annum only.

12. Keeping in view the above, the judgments and decrees of the Courts below are modified to the extent that on the gratuity amount admissible from the period 13.07.1960 to 12.06.1988, the respondent-plaintiff is entitled for interest @ 6% per annum from the date he filed the civil suit i.e. 25.04.2012 onwards till the actual payment of the same @ 6% per annum only.



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(HARSIMRAN SINGH SETHI)
JUDGE

HARSHA RANI
2024.05.30 17:55
I attest to the accuracy and
integrity of this document