

**RSA-2637-2018 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****(237)****RSA-2637-2018 (O&M)****Date of decision:- 06.08.2024****Sikander Singh****... Appellant****Versus****State of Punjab and others****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. J.P.S. Sidhu, Advocate
for the appellant.

Mr. Puru Jarewal, AAG, Punjab
for the respondents.

**********SUVIR SEHGAL, J. (ORAL)**

1. Plaintiff-appellant is in second appeal before this Court seeking modification of the judgment and decree passed by the Courts below.
2. Pleaded case of the plaintiff-appellant is that he retired from the post of Social Education and Panchayat Officer on 30.09.2012 and became entitled to pensionary benefits from the very next day. No inquiry or complaint was pending against him, but, the defendants delayed the completion of the pension papers, which resulted in a delay of the release of pensionary benefits as well as GPF. Also, he was not paid salary for two months, i.e., May and June, 2021. Some missing credits of GPF were also not given. Claiming retiral benefits w.e.f. 01.10.2012, along with consequential benefits and interest @ 18% per annum on the delayed payment, plaintiff filed a suit for declaration and mandatory injunction.



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3. Upon being served, defendants No.1 to 5 and defendant No.6 filed separate written statements. Besides taking various preliminary objections, defendants No.1 to 5 submitted that there were allegations of fraud against the plaintiff, as he had not deposited the amount, imposed by the audit department. A stand was taken that the delay was on account of the act and conduct of the plaintiff, who delayed the completion of the retiral papers. Defendant No.6, who was impleaded by name, filed a separate written statement contesting the allegations levelled against her. Issues were framed on the basis of the pleadings of the parties. Plaintiff stepped into the witness box as his own witness and tendered affidavit, Ex.PW-1/A, besides producing documentary evidence. Defendants produced Navneet Joshi, Block Development and Panchayat Officer, Mor as their witness and he filed affidavit, Ex.DW-1/A, besides producing documentary evidence. After the parties addressed the arguments, by judgment dated 25.02.2016, Trial Court partly decreed the suit to the effect that the plaintiff is entitled to the withheld salary as also simple interest @ 6% on the delayed payment of pension and GPF. Both the plaintiff and defendants filed separate appeals before the First Appellate Court. Appeal, filed by the plaintiff, was dismissed. However, in appeal, preferred by defendants No.1 to 5, learned Additional District Judge, Mansa modified the judgment of the Trial Court, set aside the decree in so far as it pertained to award of interest on the delayed payment of pensionary benefits. The finding of the Trial Court that no cut could be imposed on the pension by way of punitive action, was also reversed. Plaintiff is in second appeal before this Court in the above background.



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4. I have heard counsel for the appellant and considered the arguments addressed by him.

5. While issuing notice of motion to the respondents, this Court passed the following order in the main appeal on 11.04.2019:-

“On perusal of the judgment dated 22.03.2017 passed by the Lower Appellate Court, what transpires is that the punishment order dated 09.02.2016 Exhibit D-9 has rightly been upheld in the light of the fact that the appellant-plaintiff had not challenged the said order, although it had come into existence during the pendency of the suit but no amendment to the civil suit has been carried out. The judgment, therefore, passed by the Lower Appellate Court to the extent of setting aside the order of the trial Court stating in the judgment dated 25.02.2015 that cut in pension is not valid, has rightly been set aside. The point which requires to be considered is with regard to the denial of the interest on delayed payment of retiral benefits and it is on this question that notice of motion is being issued.

Notice of motion.

On the asking of the Court, Mr. Charanpreet Singh, Assistant Advocate General, Punjab, accepts notice.

Let a complete paper book be supplied to the counsel for the State during the course of the day under proper receipt.

List for arguments on 16.08.2019.”

6. In the evidence led before the Trial Court, it has been established that the plaintiff was exercising the powers of a Drawing and



Disbursing Officer at the time of his retirement. A departmental enquiry was pending against him at that time, which culminated in the passing of punitive order dated 09.02.2016, Annexure D-9, whereby 10% cut in the pension was imposed. It was the duty of the plaintiff as a Drawing and Disbursing Officer to stop the deductions of GPF six months prior to his retirement, which he did not do and violated the instructions issued by the Government. Defendants have led evidence to the effect that the plaintiff took away his service book on the pretext of its completion for the purpose of disbursal of pension and gratuity. Despite various verbal reminders, he did not return it and a letter dated 01.04.2013, Ex.D-3, was issued to him to submit the service book in the office, so that his pension case could be processed. As such, the defendants succeeded in establishing that the delay was not on their part, but rather on account of the act and conduct of the plaintiff. For this purpose, the defendants cannot be burdened with interest.

7. This Court does not find any infirmity or illegality in the findings recorded by the Lower Appellate Court, which are hereby affirmed.

8. Appeal is devoid of merit and is dismissed with no order as to costs.

9. Pending application(s), if any, is disposed of.

(SUVIR SEHGAL)
JUDGE

06.08.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No