



RSA-3259-2018(O&M) &
RSA-3261-2018(O&M)
215-1

-1-

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

(1) RSA-3259-2018(O&M)

The Haryana State Minor Irrigation and Tubewell Corporation Limited
and others

...Appellants

Versus

Om Parkash Pandey

...Respondent

(2) RSA-3261-2018(O&M)

The Haryana State Minor Irrigation and Tubewell Corporation Limited
and others

...Appellants

Versus

Om Parkash Pandey

...Respondent

Date of decision:-12.11.2024

CORAM: HON'BLE MR.JUSTICE SUVIR SEHGAL

Present: Mr. Pritam Singh Saini, Advocate,
Ms. Vamika Johar, Advocate and
Mr. Abhay Chauhan, Advocate
for the appellants in both appeals.

None for respondent despite service.

SUVIR SEHGAL, J.(ORAL)

1. This order shall dispose of both the above noted appeals as
they involve common question of law and fact. For the sake of
convenience, facts are being extracted from RSA-3259-2018.

2. Appellants – defendants are in second appeal before this



RSA-3259-2018(O&M) &
RSA-3261-2018(O&M)
215-1

-2-

Court assailing the concurrent finding of fact recorded by the Courts below.

3. Plead case of the respondent – plaintiff is that he joined as a Junior Engineer with defendant No.1 in the year 1979. On the basis of a complaint, he was placed under suspension on 12.04.1984 and after the suspension was revoked, he was not allowed to join the duty till February, 1985. A charge-sheet dated 16.06.1987 was served upon the plaintiff. An Inquiry Officer was appointed, who submitted a report on 27.02.1990. By order dated 30.11.1990, punishment of stoppage of two increments without cumulative effect and order of recovery of Rs.2,77,097/- was imposed upon him. He filed a departmental appeal, which was rejected on 14.02.1991. He challenged both the orders by filing a writ petition before this Court, which was disposed of vide order dated 28.11.1991 directing that his departmental appeal be heard by the Board of Directors after affording him due opportunity. Order dated 24.08.1994 was passed by defendant No.1 and penalty amount was reduced to Rs.2,27,755/-, increments and arrears of pay were ordered to be released and the plaintiff was censured on account of some lapses. Plaintiff challenged the order before the High Court by filing a writ petition, which was allowed by order dated 02.01.1997. A fresh order was passed and an amount of Rs.2,23,755/- was ordered to be recovered from the plaintiff along with interest @ 12% per annum. Plaintiff was censured and his ACRs for the relevant period were down graded. Plaintiff challenged the said order by filing a suit for declaration.



RSA-3259-2018(O&M) &
RSA-3261-2018(O&M)
215-1

-3-

4. Upon being served, suit was contested by the defendants by taking some preliminary objections. Various complaints received against the plaintiff were highlighted in the written statement filed by the defendants. It was submitted that the punishment order was passed because of the omissions and commissions committed by the plaintiff. Rejoinder was filed by the plaintiff to the written statement filed by the defendants. On the basis of the pleadings of the parties, Trial Court framed issues and after the parties led evidence, by judgment and decree dated 23.12.2014, Trial Court decreed the suit by declaring the impugned inquiry report and consequential punishment proceedings as illegal and void. Plaintiff was held entitled to the financial benefits along with interest @ 6% per annum. Both the sides filed separate appeals before First Appellate Court. Appeal filed by the defendants was dismissed and the appeal preferred by the plaintiff was allowed and the rate of interest awarded by the Trial Court was enhanced to 12% per annum. Defendants are in second appeal in the above background.

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

6. While issuing notice of motion, this Court passed the following order on 10.09.2018:

“Present two appeals have been filed by the defendants - Corporation in view of the First Appellate Court having decided two appeals emerging out of the common suit. The only grievance raised is with regard to enhancement of the rate of interest on the



RSA-3259-2018(O&M) &
RSA-3261-2018(O&M)
215-1

-4-

outstanding dues from 6 per cent to 12 per cent keeping in view the financial condition of the defendants - Corporation.

Notice of motion for 19.03.2019.

In the meanwhile, on deposit of the outstanding decretal amount calculated @ 6% interest in terms of the decree passed by the trial Court within a period of 10 days from today, the payment of remaining amount shall remain stayed.

Photocopy of this order be placed on the connected case.”

7. During the pendency of the instant appeals, appellants have filed an affidavit dated 13.08.2018 of Sh.B.P. Sharma, Personnel Officer, Haryana State Minor Irrigation & Tubewells Corporation, Panchkula, wherein it has been submitted that before his termination, respondent was working in Command Area Development Authority and an intimation vide letter No.766-68/21A dated 09.08.2017 has been received from the office that a total amount of Rs.1,62,300/- plus Rs.49,500/- has been recovered from the respondent. It has been categorically stated that no interest has been recovered from him.

8. A perusal of the judgment passed by the learned Additional District Judge, Chandigarh shows that the sole ground on which the interest rate has been enhanced is because the First Appellate Court came to the conclusion that the recovery was effected from the respondent and an interest of 12% per annum has been charged on the recovered amount. From the affidavit of Sh.B.P. Sharma, it is apparent that no interest was



RSA-3259-2018(O&M) &
RSA-3261-2018(O&M)
215-1

-5-

charged from the respondent. It is, therefore evident that the finding recorded by the learned Additional District Judge, Chandigarh is against the record. Consequently, the finding cannot be sustained and deserves to be set aside.

9. As a sequel to the above, the rate of interest is scaled down to 6% per annum. The judgment passed by the learned Additional District Judge, Chandigarh is modified and the judgment and decree of the Trial Court is restored.

10. Appeals are disposed of.

11. Pending application (s), if any, stand disposed of.

12.11.2024
Brij

(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No