



CR No. 3859 of 2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3859 of 2019 (O&M)
Reserved on: 20.05.2025
Pronounced on: 22.05.2025

Ashok Kumar

.....Petitioner

Versus

State of Haryana & Ors.

.....Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by: Mr. B.K. Bagri, Advocate
For the petitioner.

Mr. R.K.S. Brar, Addl. AG Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Article 227 of the Constitution of India, petitioner assails order dated 25.02.2019 (Annexure P-8) passed by the Executing Court of learned Additional Civil Judge (Sr. Divn.), Bawal, whereby objections of the respondents/ JDs No. 4 and 9 were allowed, and the execution filed by the petitioner/ decree holder was directed to be consigned.

2. As the perusal of the paper book would reveal, petitioner retired from the post of MPHS (M) from SCH Bawal on 31.08.2004. The pensionary benefits were released to him with much delay. In order to claim interest on the delayed payment of pension and other retiral benefits, he filed a civil suit, which was decreed on 05.06.2010 vide Annexure P-1, whereby he was allowed interest @ 18% per annum on delayed payment of pension and other retiral benefits from the date of retirement i.e. 31.08.2004 till realization.

3. In the appeal filed by the respondents-judgment debtors, the above-said judgment of the trial Court was modified, directing that interest

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on the delayed payment is to be made to the plaintiff-decree holder from the date of attaining the age of superannuation till actual payment @ 12% per annum, in case payment is made within a period of 03 months from the date of delivery of judgment; whereas the interest shall be @ 18% per annum, in case it is not paid within three months. Said judgment dated 27.08.2010 (Annexure P-2) passed by the Appellate Court was upheld by this High Court in RSA No. 4472 of 2010; and RSA No. 4474 of 2010 decided on 20.04.2012 (Annexure P-3).

3. Petitioner-decree holder then filed execution for implementation of the decree. In the said execution, objections were filed by some of the JDs, which were opposed by the decree holder-petitioner. However, those objections have been dismissed by the Executing Court by way of the impugned order dated 25.02.2019 (Annexure P-8) and it was held that decree holder has been made payment of interest @ 12% and nothing remained to be done in the execution petition.

4. Assailing the above-said order, it is contended by learned counsel for petitioner-decree holder that since the payment of interest on the delayed payment was not made within a period of three months from the date of judgment passed by the Appellate Court, therefore, the petitioner was entitled to interest @ 18% per annum.

5. Heard. It is undisputed that petitioner was eligible for pension and other retiral benefits w.e.f. 01.09.2004. It is further undisputed that payment of pensionary benefits with interest to the tune of ₹2,48,778/- was made to the decree holder-petitioner on 28.07.2009. Besides, following amounts were released to the petitioner:-

- (i) 06.12.2007 : ₹74826/-
- (ii) 03.01.2013 : ₹98102/- and ₹1,64,087/-

6. The aforesaid amounts have been released to the decree holder by calculating the interest @ 12% per annum. The contention of

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decree holder-petitioner is that he was entitled to interest @ 18% per annum.

7. Learned Executing Court, while accepting the objections of the JD-respondents have found that it is the petitioner, who himself was responsible for causing the delay in receiving the payment. In this regard, it will be relevant to reproduce the observations as made by the Executing Court in para No.4 of the impugned order, which reads as under:-

“4. After the passing of the judgment by the Hon’ble High Court, the efforts were made by the judgment debtors to contact the decree holder vide information given to him personally and through registered post. Perusal of the execution petition reveals that vide letter No.46-47 dated 23.07.2012 the decree holder has been sent an intimation. The decree holder refused to receive the said letter. Then, copy of the letter was sent to him through speed post on 25.05.2012 then on 21.06.2012 and then further on 18.07.2012, 17.08.2012 and lastly on 29.08.2012. The judgment debtor had tendered on file the proof regarding service of the said letters. The judgment debtor had taken the plea that it was incumbent upon the part of the decree holder to provide the requisite information as asked by the department for the generation of Unique Code Payee Account. Learned Decree Holder has stated at bar that the information was already with the departments. However, this Court is of the view if the employee was asked to furnish the requisite information by the department, it is his duty to provide the same timely and he can’t refuse it merely by assuming that department is having the same in its possession. Then, on 21.01.2013, the JD departments has directed the branch manager of Syndicate Bank, Bawal to accept the cheque of the payment and deposit the same in favour of the Ashok Kumar i.e. the decree holder. The decree holder has been given the amount of the interest @ 12% on account of the delayed payment. These said facts has also been accepted by the decree holder in his reply. This Court is also of the view that the decree holder was also entitled of the interest @ 12% only on account of the delayed payment as the judgment debtors had initiated their process within the period of 3 months but it could not be completed within time due to the conduct of



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the decree holder and thus he is not entitled to any benefit due to his own wrong. Accordingly, the objections stand allowed. Hence, as the decree holder has been made the payment of interest @ 12%, the nothing remains to be done in the present execution petition. Hence, the present execution petition is consigned to the record room after due compliance.”

8. It is clear from the above observations that following the High Court's judgment, the judgment debtors (JDs) attempted to contact the decree holder through personal communication and registered post, starting with Letter No. 46-47 dated 23.07.2012. The decree holder initially refused to accept the letter. Subsequently, repeated attempts were made to send the letter via speed post on 25.05.2012, 21.06.2012, 18.07.2012, 17.08.2012, and 29.08.2012. Proof of these communications was filed. The presence of the decree holder was required to provide information for generating a Unique Code Payee Account, which he failed to do. Although the decree holder claimed the department already had this information, but the Court found that it was his duty to provide it when requested. Eventually, on 21.01.2013, the JD department instructed the bank to deposit the payment to the decree holder, Ashok Kumar. The decree holder received interest at 12% for delayed payment, which he acknowledged. The Court rightly held in these facts and circumstances that while the decree holder was entitled to 12% interest for delay, he could not claim any further benefit, as the delay was partly due to his own conduct. Therefore, the objections were rightly allowed and the payment was considered complete.

9. Having regard to the aforesaid facts and circumstances, this Court does not find any illegality or perversity in the impugned order. As such, holding the present revision to be devoid of any merits, the same is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

22.05.2025

Jiten

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No