



**Sr. No.106**  
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT**  
**CHANDIGARH**

**CM-3463-C-2025 in/and**  
**RSA-961-2025 (O&M)**  
**Date of Decision : 21.04.2025**

The Senior Executive Engineer/Distribution Mandal ...Appellant  
Versus

Naranjan Singh and others ...Respondents

**CORAM : HON'BLE MS. JUSTICE LAPITA BANERJI**

Present : Mr. Baljinder Singh, Advocate,  
for the appellant.

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**LAPITA BANERJI, J. (Oral)**

**CM-3463-C-2025**

This is an application for condonation of delay of 121 days in filing the appeal.

Heard the learned counsel appearing on behalf of the applicant-appellant.

Based on the submissions made by the learned counsel for the appellant and grounds made out in the application, the delay of 121 days in filing the appeal is **condoned**.

Application is **allowed**.

**Main case**

Under challenge in the present regular second appeal is the judgment dated July 15, 2024 passed by the District Judge, Bathinda. By the impugned judgment, the learned District Judge had set aside the judgment and decree dated November 5, 2018 passed by the Civil Judge (Jr. Division) Bathinda and held that the plaintiff is entitled to grant of interest @ 12% per annum on the retiral benefits for a period of 38 months prior to the filing of the suit till the date of actual disbursement.



2. The facts of the case are narrated hereinafter:-
- i) The plaintiff-respondent retired as an Additional Assistant Engineer of Punjab State Power Corporation Limited, Mansa on March 31, 2006.
  - ii) Vide impugned order dated September 18, 2006 passed by defendant No.2-employer/appellant, the plaintiff was allowed 66% of his provisional pension, although under the rules he was entitled to be paid provisional pension of 90%.
  - iii) Despite repeated requests and lapse of more than 7 years, the plaintiff was not paid his full pension or gratuity or leave encashment benefits.
  - iv) Vide office order dated January 19, 2010, it was indicated by the employer-appellant that a sum of Rs.6,30,567.40 was outstanding against the plaintiff and the plaintiff was required to give his consent to the said recovery, for release of his pensionary benefits.
  - v) The plaintiff had requested for a detailed calculation of the said outstanding amount but the employer neither provided the same nor disbursed the pensionary benefits.
  - vi) The appellant-employer contested the suit and filed a written statement. It was agitated that since the departmental proceedings were pending against the plaintiff, he was eligible for 66% of the provisional pension instead of 90% of provisional pension. It was also alleged that a sum of Rs.1,65,045/- was not paid by the plaintiff on account of unused material that was not returned to the department.



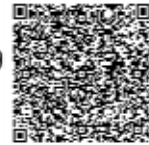
- vii) Furthermore, it was sought to be urged in defence that plaintiff failed to give consent for recovery of Rs.6,30,567.64 from his pensionary benefits and there was no delay or lapse on the part of the employer for late disbursement of the pensionary benefits.
- viii) During the pendency of the appeal, the appellant-employer had disbursed the full retiral benefits to the plaintiff. However, no interest on delayed payment of the retiral benefits was paid.
- ix) The plaintiff had prayed for 12% interest per annum, for late disbursal of retiral benefits by incorporating supplementary prayers.

3. It was argued on behalf of the appellant that there was no provision of urging supplementary grounds in the appeal.

4. After hearing the learned counsel for the parties and appreciating the material on record, the learned District Judge came to the finding that despite the plaintiff claiming full retiral benefits, the defendants failed to disburse the same for more than 7 years.

5. The learned District Judge held that at the time plaintiff superannuated with effect from March 31, 2006, provisional pension only to the extent of 66% was paid to him vide order dated September 18, 2006, instead of provisional pension of 90%, without any valid reason. Vide order dated January 19, 2010, the department communicated to the plaintiff that sum of more than 6 lakhs was payable by him, but no details for the said outstanding amount was provided to the plaintiff, despite several requests by him.

6. The first Appellate Court did not agree with the trial Court's finding that the plaintiff had failed to prove his case and was not entitled to



any relief. Though the relief sought for by the plaintiff was rejected by the trial Court it however directed the appellant-employer to conclude the proceedings against the plaintiff within 6 months from the date of judgment/decreed.

7. The learned DJ held that the appellant-defendants had taken a hyper technical objection with regard to the issue of filing of supplementary grounds of appeal. The case of “*Kedar Nath Agrawal (Dead) Vs. Dhanraji Devi (Dead) by LRs*” 2004 (8) SCC 76 was relied upon to come to the finding that subsequent events could be taken into consideration in the event, the same leads to shortening of litigation or due to subsequent change of circumstances the original relief becomes inappropriate or in order to do complete justice between the parties.

8. Since during the pendency of the appeal, the entire retiral benefits had been granted to the plaintiff, the learned District Judge held that it was necessary to take into account the subsequent events and direct grant of interest for unauthorizedly restricting the grant of provisional pension to the plaintiff to 66% only as admittedly there were no departmental proceedings pending against the plaintiff till the date of passing of the judgment in appeal.

9. Therefore, there was no reason for the employer to grant provisional pension to the plaintiff to the tune of 66% instead of 90%. No ground was made out at all by the employer to show why the full pension was not granted to the plaintiff for more than 7 years after his retirement.

10. The basis on which alleged recovery of more than Rs.6 lakhs was sought to be made was also not brought on record. The primary ground for withholding the pension of the plaintiff was on account of pendency of



departmental proceedings which could not be proved by the employer-appellant. Therefore, the learned District Judge granted interest @ 12% per annum on the outstanding retiral dues of the plaintiff. Considering the fact that the suit was filed after 6 years from the date of retirement, the interest component was restricted to 38 months from the date of institution of the suit till the date of actual disbursement.

11. This Court has heard the learned counsel for the appellant and perused the material on record.

12. It appears to the mind of this Court that there is no infirmity in the well-reasoned judgment passed by the learned District Judge. Nothing has been brought on record to show why and how the recovery of more than Rs.6 lakhs was sought to be made against the plaintiff/respondent. Furthermore, there was no corroborating evidence brought on record to support the contention of the appellant-defendants that disciplinary proceedings were pending against the plaintiff.

13. The law with regard to disbursal of pensionary benefits is well settled by the Apex Court. Pension is not a bounty but a constitutional right and is entitlement of the employee on superannuation as long as the employee serves on a pensionable post. Admittedly, the plaintiff served on a pensionable post. Therefore, the same had to be disbursed expeditiously and could not be withheld without any justifiable reason. A beneficial reference may be made to the judgment of the Hon'ble Apex Court in ***“Uttar Pradesh Roadways Retired Official and Officers Association Vs. State of Uttar Pradesh and another”***, (2024) 9 SCC 331. Relevant extract is set out hereinafter:-

*“46. The common thread in the above referred judgments of this Court is that pension is a right and not a*



*bounty. It is a constitutional right for which an employee is entitled on his superannuation. However, pension can be claimed only when it is permissible under the relevant rules or a scheme. If an employee is covered under the Provident Fund Scheme and is not holding a pensionable post, he cannot claim pension, nor the writ court can issue mandamus directing the employer to provide pension to an employee who is not covered under the rules.”*

14. Consequently, the impugned judgment passed by the learned District Judge merits no interference.

15. In view of the aforesaid discussion, RSA No.961-2025 is **dismissed.**

16. Connected applications, if any, are also accordingly disposed of.

**(LAPITA BANERJI)**  
**JUDGE**

**April 21, 2025**

Vandana

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