



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

226

CR-5658-2017

Date of Decision.:16.07.2025

Ram Kishan Yadav

.....Petitioner

Vs.

Utter Haryana Bijli Vitran Nigam and Others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. S.K. Sharma, Advocate
for the petitioner.

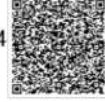
Mr. Kewal Krishan, Advocate for
Mr. S.K. Mahajan, Advocate
for the respondents.

DEEPAK GUPTA, J. (ORAL)

Petitioner is aggrieved by the order dated 01.07.2017 passed by learned Executing Court in execution case titled as "Ram Kishan Yadav vs. UHBVN and others", whereby his execution has been dismissed as satisfied.

2. Suit filed by the plaintiff/decreed-holder (petitioner herein) against the defendants/judgment-debtors (respondents herein) was decreed on 03.04.2012 and the following relief was granted:

"In view of my findings on the above issues, present suit succeeds and is hereby partly decreed. A decree for declaration to the effect that the plaintiff is entitled to an amount of Rs. 7,000- towards compulsory Deposit with interest @ 9% per annum from the date of his retirement till realization, and interest at the rate of 9% per annum on the amount of Rs. 10,177/- from 10.10.2002 till 11.07.2008 on amount of Rs. 1,25,339/ from 01.05. till 04.04.2004



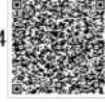
and the plaintiff is also entitled to ACP No. 1 and ACP No. 2 w.e.f. 22.10.1991 and 22.10.2001, is passed in favour of the plaintiff and against the defendants. The defendants are directed to make the payment of Decree sheet be referred above. prepared. File be consigned to the record room after interest as due compliance.”

3. Appeal filed by the respondents was dismissed by first Appellate Court on 21.01.2013. SAO No.63 of 2013 filed by respondents against judgment dated 21.01.2013 of the Appellate Court was dismissed as withdrawn on 08.07.2014 and no further appeal was filed. It is thus the admitted position that the judgment and decree dated 03.04.2012 has attained finality.

4. Some of the benefits have been released to the decree-holder/petitioner as per the decree but his claim regarding 1st and 2nd ACP have been disputed on the ground that these were applicable only to the new entrants. The Executing Court accepted the objections of the JDs in this regard by holding that the 1st ACP and 2nd ACP scales are applicable with effect from 01.01.1996 and not 01.01.1991 by way of impugned order dated 01.07.2017 and dismissed the execution as satisfied.

5. Assailing the aforesaid order, it is contended by learned counsel that Executing court could not go behind the decree. It is further pointed out that no such stand was taken by the respondents during pendency of the suit either before the trial Court or before the first Appellate Court to the effect that plaintiff was not entitled for 1st ACP and 2nd ACP with effect from 22.10.1991 and 22.10.2001 and therefore, no such objection could be raised in the execution. On the other hand, learned counsel for the respondents defended the impugned order but could not convince this Court.

6. Having considered submissions of both the sides, this Court is

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of the view that impugned order cannot be sustained. It is not disputed by counsel for the respondents that no such stand was taken during pendency of the suit that plaintiff/decreed-holder i.e. petitioner herein was not entitled for 1st ACP or 2nd ACP with effect from 22.10.1991 and 22.10.2001 respectively. As such, the respondents could not raise any such objection in the execution. Once the said reliefs have been granted by the trial Court by way of judgment & decree dated 03.04.2012, which has attained finality, the Executing Court could not go behind the decree so as to decline the claim of the plaintiff/decreed-holder in this regard.

7. As such, the present petition is accepted. The impugned order dated 01.07.2017 is hereby set aside. The concerned Executing Court is directed to restore the execution in question and proceed further with the same in accordance with law.

(DEEPAK GUPTA)
JUDGE

July 16, 2025

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No