
(2014) 08 P&H CK 0162
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 15248 of 2014

Resham Singh

APPELLANT

Vs

Allahabad Bank

RESPONDENT

Date of Decision : 04-08-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 152

Citation : (2014) 08 P&H CK 0162

Hon'ble Judges : Gurmeet Singh Sandhawalia, J

Bench : Single Bench

Advocate : Naresh Kaushik, Advocate for the Appellant

Final Decision : Dismissed

Judgement

G.S. Sandhawalia, J.—The petitioner is praying for a direction for granting interest on the arrears of payment of pension, which comes to Rs. 2,36,626.46 upto February, 2011.

2. Admittedly, the petitioner had filed a suit for declaration that he was entitled for grant of pensionary benefits and was also entitled for the interest on the same, w.e.f. 01.07.1996. The Civil Court found that the Department was yet to decide the option claimed for the pensionary benefits and the petitioner was already enjoying the amount released to him in the shape of contributory Provident Fund and Gratuity, since his retirement. Accordingly, a direction was issued to refund the same and the suit was decreed, partly, to the extent that the petitioner was held entitled for grant of pensionary benefits from the date of his retirement, i.e., 30.06.1986 in view of the Allahabad Bank (Employees") Pension Regulations 1995 dated 16.11.1995 and option dated 19.01.1996, submitted by the petitioner. The petitioner had to comply with the relevant provision regarding refund of share of Provident Fund contributed by the Bank along with interest @ 6% per annum, vide judgment and decree dated 22.04.2009 (Annexure P1). It is pertinent to mention that in the decree, the relief for interest, as claimed, was never granted, which would be clear from the

decree-sheet, relevant portion of which reads as under:

Suit for declaration to the effect that the plaintiff is entitled for the grant of pensionary benefits w.e.f. his date of retirement i.e. 30.06.1986 the date of his superannuation in view of the Instructions Circular No. 3904, dated 06.09.1994 regarding proposed pension Regulations named as Allahabad Bank (Employees) Pension Regulations 1993 and Allahabad Bank (Employees") Pension Regulations 1995 dated 16.11.1995 and he is also entitled for the pensionary benefits and commuted pension in view of the option dated 21.09.1994 and 19.01.1996;

AND

For mandatory injunction directing the defendants to pay the up to date arrears of the pension w.e.f. 01.07.1986 till date along with interest and also to pay the commuted pension to the plaintiff.

This suit is coming on this 22nd day of April, 2009 for final disposal before me, Manila Chugh, PCS, Civil Judge (Jr. Div.), Jalandhar in the presence of Sh. H.K. Chopra Adv., counsel for the plaintiff, Sh. I.S. Bhatia, Adv., counsel for the defendants no. 2 to 4 and defendant no. 1 exparte.

In this case, it is hereby ordered that the present suit is hereby partly, decreed with no order as to costs.

3. The petitioner then filed execution application and in the same, he also filed application for correction of the judgment and decree on the ground that interest had been granted under issue No. 2. The application was opposed on the ground that the amount of Rs. 5,13,856/-, pertaining to the pension was duly credited in the account of the petitioner and Gurmej Kaur on 04.03.2011 and no direction had been issued to pay pension along with interest. The Executing Court rejected the application, filed u/s 152 CPC, on the ground that the correction of the judgment and decree had not been sought and the Executing Court could not go behind the decree. Accordingly, the execution being fully satisfied, the application was dismissed. The petitioner being dissatisfied, thereafter, filed CR No. 5306 of 2013 before this Court, which has also been dismissed on the ground that there was no legal infirmity. Relevant portion of the judgment dated 03.09.2013 reads as under:

Respondent-Bank complied with the directions given in the aforesaid decree. Plaintiff, being dis-satisfied as interest was not granted on the arrears of pension, moved the instant application for correction of decree. Same has been dismissed by the court below observing that executing court can not go behind the decree. I find no legal infirmity with the impugned order. Executing court would be bound by the terms of the decree and would have no jurisdiction to make any correction therein. Thus, revision petition is without any merit and is dismissed.

4. The present writ petition has, now, been filed for the benefit of interest on the pension amount.

5. From the above facts, it would be clear that the petitioner was not granted the relief in the Civil Suit. He was unsuccessful in getting the decree modified and the Executing Court also dismissed the said application. Thereafter, he assailed the said order in the revision petition which was also dismissed. In such circumstances, by filing an independent writ petition, for the same relief, the bar of res judicata would obviously come in his way. The petitioner can not be allowed to change the forum to suit his convenience.

6. Accordingly, the present writ petition is dismissed in limine being totally misconceived.