

(1998) 08 P&H CK 0119
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 551 of 1993

State of Punjab and Another	Vs	APPELLANT
Raj Kumar Bansal, Junior Engineer, PWD, B and R Branch		RESPONDENT

Date of Decision : 13-08-1998

Acts Referred:

Citation : (1998) 120 PLR 601 : (1999) 1 RCR(Civil) 235

Hon'ble Judges : G.C. Garg, J

Bench : Single Bench

Advocate : None, for the Appellant; Surinder Gandhi, for the Respondent

Final Decision : Allowed

Judgement

G.C. Garg, J.—Plaintiff-respondent filed a suit for declaration to the effect that the order dated 11.11.1986 passed by defendant No. 2 whereby the plaintiff has been awarded the punishment of stoppage of two annual grade increments with future effect and treating the absence period as extra ordinary leave, without pay and the recovery of Rs. 3251.71 ps. was illegal, void and against principles of natural justice and that the plaintiff was entitled to arrears of pay on account of stoppage of increments and pay for the period 6.7.1979 to 31.7.1979, 7.9.1979 to 8.9.1980 and 7.12.1981 to 29.4.1988 and that he is not liable to pay the amount of Rs. 3251.71 ps. This suit was decreed by the trial Court by judgment and decree dated 28.7.1988 by ordering that the suit of the plaintiff is decreed with costs in favour of the plaintiff and against the defendant for declaration to the effect that the impugned order dated 11.11.1986 is illegal, null and void and is not binding on the rights of the plaintiff. It seems that this order became final as no appeal or revision was taken there-against.

2. Plaintiff took out execution. The plaintiff-decree holder besides claiming several amounts also claimed interest on the delayed payment @ 12% per annum from the date of the suit till the date of decree. The Executing Court on a consideration of the matter by its order dated 17.11.1992 calculated the amount

of decree at Rs. 30,750.70 ps. The Executing Court further ordered payment of interest @ 12% per annum from the date of suit till the date of decree and @ 6% p.a. from the date of decree till payment. It is this order of the Executing Court, which is under challenge at the instance of State of Punjab.

3. Learned State counsel has not put in appearance. I have, however, heard learned counsel for the decree-holder and have also gone through the orders of the Executing Court and grounds of revision.

4. From the grounds of revision, I find that the only challenge on behalf of the State to the order of Executing Court is to the grant of interest to the decree-holder. Learned counsel appearing for the respondent could not by reference to the decree show that the Court decreeing the suit had awarded interest. Once that is so, I am clearly of the opinion that the Executing Court cannot grant interest on the arrears of pay. Such interest can only be granted by the Court decreeing the suit. The only function of Executing Court is to execute the decree as it is and it cannot add something to it at its own level. Reference in that behalf can be made to the case of State of Punjab and others Vs. Krishan Dayal Sharma, .

5. In that view of the matter, the order under revision cannot be sustained. This revision is consequently allowed and order of Executing Court whereby it ordered the payment of interest on the arrears as calculated as per the decree is quashed.

6. The Executing Court shall now calculate the amount as per the decree and get it paid to the decree holder in accordance with law. Parties through their counsel have been directed to appear before the Executing Court on 7.9.1998.