The State of Punjab and Others Vs Daya Singh

Civil Revision No. 3645

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 23, 1993

Acts Referred:
Civil Procedure Code, 1908 (CPC) â€" Section 115, 34

Citation: (1994) 107 PLR 72

Hon'ble Judges: V.K. Jhanji, J

Bench: Single Bench

Advocate: K.K. Beniwal, A.A.G, for the Appellant; Surjeet Singh and Vikas Sigh, for the Respondent

Final Decision: Allowed

Judgement

V.K. Jhanji, J.
Respondent''s suit for declaration to the effect that the order terminating his services was null and void was decreed in the

following terms:-

In view of my findings on the issue No. 1 above, I decree the suit of the plaintiff to the effect that order No. 2285-87/ECD dated 17.6.1983 vide

which terminated with effect from 5.5.83 is null and void as is arbitrary, in contravention of Civil Services (Punishment and Appeal) Rules, 1970,

and in contravention of Constitution of India with all benefits and with all consequential reliefs as a servant which have been declined to him due to

the passing of the impugned order. However, there shall be no order as to costs. Decree-Sheet be prepared accordingly and file be consigned to

the record-room."" On passing the decree, he was paid arrears of his salary. He was not satisfied with the same and, therefore, he filed an

execution application in which he claimed interest on the belated payment of the salary. An objection was raised by the State that under the

decree-no interest was payable and, therefore, the decree-holder is not entitled to interest. Objection of the State did not find favour with the

executing Court. Interest at the rate of 12 per cent p.a. was allowed by the executing court from the date of filing the suit till the passing of the

decree and thereafter at the rate of 6 per cent p.a. till realisation of the amount. The order of the executing Court is being challenged in the present

revision petition.

2. After hearing learned counsel for the petitioner, I am of the view that this revision petition deserves to succeed. The question raised in the

revision petition is as to whether the executing Court can grant interest when the same was not awarded to the respondent under the decree. The

matter is squarely covered by a decision of the Supreme Court in State of Punjab and others Vs. Krishan Dayal Sharma, , wherein it was held that

in absence of pleadings and direction in judgment or decree, which was under execution, it was not open to the executing Court to award interest.

The executing Courti bound by the terms of the decree, it cannot add or alter the decree on its notion of fairness or justice. The right of the decree-

holder to obtain relief is determined in accordance with the terms of the decree. Admittedly, in the present case, interest was not awarded to the

respondent under the decree and, therefore, order of the executing court cannot be sustained, and the same is hereby quashed.

3. Consequently, the revision petition is allowed. No costs.