

Union Of India vs Arjan Singh (Deceased) Through His Lrs on 14 January, 2020

Bench: Uday Umesh Lalit, Indu Malhotra

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.287 OF 2020

(Arising out of SLP (Civil) No.13437 of 2017)

UNION OF INDIA

... AP

VERSUS

ARJAN SINGH (DECEASED) THROUGH HIS LRS & ANR.

... RE

O R D E R

Leave granted.

This appeal arises out of the judgment and order dated 11.02.2016 passed by the High Court of Punjab & Haryana at Chandigarh in Civil Revision No.6242 of 2004 (O&M).

The Revision Petition arose out of the order dated 13.09.2004 passed by the Executing Court on an application preferred by the plaintiff seeking execution of decree dated 25.01.1997 passed by the Civil Judge (Junior Division), Amritsar, in Civil Suit No.173 of 1996.

The Civil Suit was filed for mandatory injunction seeking directions against the present appellant that Central Government Freedom Fighters' Pension on the pattern of Punjab Government PPO No.1459/FF/Pb. be granted to one Sardar Arjan Singh, the plaintiff w.e.f. 15.08.1972 and that all the

Date: 2020.01.18 11:30:18 IST Reason:

arrears be paid to him from the aforesaid date with interest @ 18% per annum.

The Suit was preceded by a notice issued by the plaintiff under Section 80 of the Code of Civil Procedure, 1908. The suit was decreed ex parte by the Civil Judge (Junior Division), Amritsar on 25.01.1997. The operative part of the judgment and decree was as under:

“In view of the evidence led by the plaintiff consisting of the statement of a witnesses and law on this point, referred to above, I am of considered view that the plaintiff is definitely entitled to the freedom fighter pension by Centre as he is drawing pension from the Punjab State being a freedom fighter. I, therefore, pass an ex parte decree in favour of the plaintiff against the defendant No.1, directing defendant No.1 to grant/pay him Freedom Fighter Pension from 15.08.72 and pay him all the arrears of such pension to the date with interest at the rate of 18% p.a. and with cost. Therefore, suit against defendant No.2 stands dismissed as having been withdrawn. Decree sheet be prepared accordingly. File be consigned.

Announced in open court.” The ex parte decree was never put in challenge and thus attained finality. Thereafter, the plaintiff preferred an appropriate application seeking execution thereof at which stage an objection was taken on behalf of the appellant about the jurisdiction of the Civil Court to entertain the suit and pass the decree.

The objection so raised by the appellant was accepted by the Executing Court and the Execution Petition was dismissed. This led to the filing of the Revision Petition by the respondents (as heirs of the deceased plaintiff) which was allowed by the High Court by its judgment and order which is presently under appeal.

It is a matter of record that Sardar Arjan Singh, the original plaintiff, was given appropriate pension by State of Punjab for his meritorious contribution to the freedom struggle of the nation. He was also awarded a Tamra Patra under the signature of the then Prime Minister in the year 1972 i.e. on completion of 25 years after the Independence. The contribution of the respondent was thus well recognized and accepted.

Considering the facts and circumstances on record, we therefore see no reason to interfere with the order passed by the High Court.

However, there are two areas where certain corrections/modifications are called for.

(I) Ms. Binu Tamta, learned Advocate appearing for the appellant has invited our attention to the decision of this Court in *Union of India v.*

*Ganesh Chandra Dolai & Others*¹ which indicates that the Freedom Fighters’ Pension be given from the date of the order passed in favour of the person concerned. To similar effect is another decision in *Secretary to Government of India v. Sawinder Kaur & Another*².

(1997) 10 SCC 289 (2013) 14 SCC 789 It is, therefore, submitted that the benefit of pension be given to the person or his heirs, if applicable, only from the date of the order. We accept the submission and declare that the benefit of pension shall be available to the respondent only from the date of the order i.e. 25.01.1997.

(II) Second area where the matter calls for modification is the rate of interest at which the arrears have been directed to be paid by the Trial Court.

The rate of interest @ 18% per annum, as awarded by the Trial Court, is highly excessive. In our view, the interest of justice would be met if the rate of interest is scaled down from 18% to 8% per annum. We order accordingly. All the arrears calculated at the aforesaid rate and from the date as stated hereinabove shall be made over to the person concerned within eight weeks from today.

The Civil Appeal is disposed of in aforesaid terms. No costs.

.....J. [UDAY UMESH LALIT]J. [INDU MALHOTRA] NEW DELHI;

JANUARY 14, 2020

ITEM NO.24

COURT NO.6

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No.13437/2017 (Arising out of impugned final judgment and order dated 11-02-2016 in CRN No.6242/2004 passed by the High Court Of Punjab & Haryana At Chandigarh) UNION OF INDIA Petitioner(s) VERSUS ARJAN SINGH (DECEASED) THROUGH HIS LRs & ANR. Respondent(s) (IA No. 17416/2019 – FOR EXEMPTION FROM FILING O.T.) Date : 14-01-2020 These matters were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT HON'BLE MS. JUSTICE INDU MALHOTRA For Petitioner(s) Ms. Binu Tamta, Adv.

Mr. A.K. Kaul, Adv.

Mr. B. Krishna Prasad, AOR For Respondent(s) Ms. Manjula Gupta, Adv.

Mr. Prem Sunder Jha, AOR Mr. M.D. Pandey, Adv.

Mr. Karan Bharihoke, AOR Mr. Siddhant Sharma, Adv.

UPON hearing the counsel the Court made the following O R D E R Leave granted.

The Civil Appeal is disposed of, in terms of the Signed Order. Pending application(s), if any, shall stand disposed of.

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER

(Signed Order is placed on the File)