(2014) 05 RAJ CK 0145

In the Rajasthan High Court

Case No : Civil Writ Petition No. 672/1999

Bhagirath Choudhary APPELLANT

Vs

State of Rajasthan and Others RESPONDENT

Date of Decision : 13-05-2014

Acts Referred:

Citation : (2014) 05 RAJ CK 0145

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Sanjay Mathur, Advocate for the Appellant; B.L. Bhati, Govt. Counsel, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Dr. Vineet Kothari, J.—The petitioner superannuated from the services of the State Government as teacher on 31.07.1996. The petitioner initially was appointed as Teacher in the Municipal School of the Municipal Board, Raisinghnagar, on 09.03.1956, however, his services were later on transferred to the State Government w.e.f. 01.04.1972 when such Municipal Schools were taken over by the respondent State Government. In the Municipal Board, Raisinghnagar, CPF deductions were made from the salary of the petitioner and at the time of his absorption in the services from the Municipal Board, Raisinghnagar to the State Government, he was paid back his contribution fund amount.

2. After his retirement on 31.07.1996, vide Annex. 3 representation dated 02.01.1998, filed by the petitioner to the Joint Director of the Pension Department, Bikaner, the petitioner submitted that he has deposited back his CPF amount contribution of the Municipal Board with 7% interest purportedly with the Municipal Board and, therefore, his past services rendered in the Municipal Board from 09.03.1956 till 01.04.1972 should be taken as qualifying service for pension purposes in the State Government and revised pension should be given to him. The para 4 of the said representation is quoted herein

below for ready reference:-

3. Upon issuance of the notices, the respondent State has filed reply to the writ petition and has submitted that they have already issued the Pension Payment Order (PPO) in favour of petitioner, who unfortunately expired during the pendency of the writ petition and his legal heirs were taken on record, on 13.10.1998 vide the PPO No. 605595/BK and G.P.O. No. 608744 dated 13.10.1998, therefore, it wrong to contend that pension case of the petitioner has not yet been finalized.

4. Mr. B.L. Bhati, learned Govt. Counsel, also submitted that deposit back of the CPF amount was much belated after his absorption in the services on 01.04.1972 in the State in the year 1998 and merely because no such time limit was fixed for depositing back of the CPF amount, while opting for pension, the petitioner could not be permitted to claim pension for the period of services rendered by him in the Municipal Board, Raisinghnagar, after his retirement and more so when such amount has not been deposited with the State Government as such. The relevant paras 2 and 6 of the reply are quoted herein below for ready reference:-

2. That in reply to para No. 2 of the writ petition it is respectfully submitted that the petitioner is being given pension in accordance with rules. He has been allowed P.P.O. No. 605595/BK and G.P.O. No. 608744 dated 13.10.1998 as such, the averments made in this para whereby he has alleged that the answering respondents have still not finalised the pension case of the petitioner is emphatically denied. The petitioner is being given pension in accordance with the prevailing rules.

6. That in reply to para 6 of the writ petition it is respectfully submitted that the averments made in this para are totally relating to the Municipal Board, Raisinghnagar. The petitioner has said that the contributory provident Fund deducted was given to the petitioner and the petitioner refunded the entire loan (sic! CPF amount) amount on 19.6.1997 whereas, the petitioner has not made the Municipal Board, Raisinghnagar as party-Respondent. The answering respondents do not admit the averments made in this para in want of knowledge.

5. I have heard the learned counsel for the parties at length and perused the record.

6. Not only the purported claim made by the petitioner for pension counting his period of service rendered by him in the Municipal Board, Raisinghnagar, for the period 09.03.1956 to 01.04.1972 was highly belated and stale and after his retirement in the year 1996, he sought to take the benefit of said Rule 2(29) of the R.S.R., but it is also not clear from the record that as to why only contribution of Municipal Board was deposited back with interest @ 7% in the Municipal Board, Raisinghnagar, as no such copy of the receipt or document has been placed on record by the petitioner with his representation (Annex. 3) dated 02.01.1998. It cannot be said that pension case of the petitioner was not finalized upon his retirement from the services of the State Government in the

year 1996 as the details of pension payment order has already been given in the reply filed by the respondent-State and this fact has not been disputed by the learned counsel for the petitioner. Therefore, at this stage, after so many years, more so when the petitioner has unfortunately expired and his legal heirs are possibly taking the family pension, the State Government cannot be directed to give benefit of Rule 2(29) of the R.S.R. to the petitioner in these circumstances.

7. The petitioner at best would be entitled to refund of the amount of CPF contribution, deposited by him in the Municipal Board, Raisinghnagar, upon the satisfaction of the concerned authority and the relevant documents produced by the legal representatives of the petitioner proving the factum of deposition of amount of refund if not already made. However, the State Government cannot directed in these circumstances to revise the pension of the petitioner/family pension now payable to the legal representatives of the petitioner in the aforesaid circumstances.

8. The writ petition preferred by the petitioner is found to be bereft of any merit and the same is hereby dismissed. No costs. A copy of this order be sent to the concerned parties forthwith.