(2020) 07 SHI CK 0131

In the High Court Of Himachal Pradesh

Case No : CWPOA No. 881 Of 2019

Bimla Thakur APPELLANT

Vs

State Of Himachal Pradesh And Others RESPONDENT

Date of Decision : 20-07-2020

Acts Referred:
General Provident Fund (Central Services) Rules 1960 — Rule 11, 34

Citation : (2020) 07 SHI CK 0131

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Nimish Gupta, Ashok Sharma, Sudhir Bhatnagar, Arvind Sharma, Kunal Thakur

Final Decision : Dismissed

Judgement

Sandeep Sharma, J

1. Petitioner, Bimla Thakur, having rendered 32 years of service in Education Department, though retired on 31.12.2010, but was allowed to render her services as a Teacher in Government School till 31.3.2011. Petitioner was to superannuate on 31.12.2010, after having attained the age of superannuation, but Government of Himachal Pradesh, with a view to protect the interests of the students, decided, in principle, not to transfer or retire the teachers in mid-academic session and accordingly, the petitioner was allowed to work till 31.3.2011, however, it appears that the respondents much prior to actual date of retirement of the petitioner i.e. 31.12.2010, processed her case for pension and vide Bill No. 127, dated 2.2.2011, paid a sum of Rs.6,11,012/-, on account of retirement gratuity. Besides above, respondents, vide bill No. 161, dated 1.3.2011, paid a sum of Rs.17,76,571/- on account to leave encashment. Precisely, grouse of the petitioner is that her GPF vide Bill No. 160, dated 28.3.2011 amounting to Rs. 10,78,658/- was though paid on 28.3.2011, but she is entitled to interest on account of delayed payment of GPF. As per petitioner, GPF amount, in any eventuality, is to be paid within one month of retirement but

since in her case, such amount came to be paid on 28.3.2011, she is entitled to interest at the rate of 18% per annum. In the aforesaid background, petitioner has approached this Court with the following reliefs:

"(a) Issue writ in the nature of mandamus or any other writ, order or directions to the following effect: Issue a writ of mandamus, certiorari and/or appropriate writ, order or directions, thereby directing the Respondents to release the interest @ 18% due to petitioner on account of delay in disbursing the monetary amount of GPF, Pension, Amount deposited in General insurance scheme, amount payable attributable to PROP."

2. Having heard learned counsel for the parties and perused the material available on record, this Court finds that practically, the petitioner stood retired on 31.12.2010 and as such, respondents much prior to her date of retirement, processed her pension case and accordingly, vide various bills, as taken note herein above, paid amount qua leave encashment, GPF, HPGIS and GPF mis-credits to the petitioner. Admittedly, in the case at hand, a sum of Rs.10,78,658/- on account of GPF came to be paid to the petitioner on 28.3.2011 i.e. approximately after three months of date of retirement of the petitioner.

3. Rule 34 of GPF (Central) Rules, suggests that case for payment of GPF is to be processed within a period of one month from the date of retirement and in case, it is not paid within aforesaid period, employee is entitled to interest for delayed payment in terms of Rule-11 of the Rules ibid. In the case at hand, it is not in dispute that the petitioner after having attained age of superannuation was allowed to work in the capacity of teacher till 31.3.2011 i.e. for three months. It is also not in dispute that for the aforesaid period, she has been paid Rs.61,761/-, as such, respondents' stand in their reply is that since the petitioner was retired on 31.12.2010, period of one month as prescribed under Rule 34 of the Rules ibid would actually start with effect from 31.12.2010, whereas, entire amount of Rs.10,78,658/- was paid to the petitioner on 28.3.2011, as such, she is not entitled to any interest as is being claimed.

4. True, it is that in normal circumstance, petitioner would have retired on 31.12.2010 but, in the case at hand, this Court cannot lose sight of the fact that the petitioner was allowed to work for three months more after her retirement and qua this period, she was paid Rs.61,761/-, as such, it cannot be said that the petitioner suffered pecuniary losses, if any, on account of delay in the payment of GPF, which was otherwise paid to her within a period of three months from the date of actual retirement i.e. 31.12.2010. Leaving everything aside, petitioner stands duly compensated for the delay, if any, in payment of GPF amount by the respondents as she has already been paid a substantial amount of Rs.61,761/- for three months.

5. Consequently, in view of above, present is dismissed being devoid of merit, alongwith pending applications, if any.

