

(2012) 12 AHC CK 0018

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 56082 of 2008

Budhi Sagar Shukla

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 19-12-2012

Acts Referred:

Citation : (2013) 3 ADJ 110

Hon'ble Judges : P.K.S. Baghel, J

Bench : Single Bench

Advocate : Ramesh Kumar Tripathi, Kameshwar Chaubey and P.C. Singh, for the Appellant;

Final Decision : Allowed

Judgement

P.K.S. Baghel, J.—Petitioner was a Lecturer (Sanskrit) in Ganna Vikas Inter College Munderwa, Basti. He retired from service on 30.6.2006. He is aggrieved by order dated 27.8.2007 passed by Joint Director of Education, Basti Region Basti whereby the representation with regard to his claim of interest of delayed payment of G.P.F. Has been turned down. A brief reference to the factual aspect of the case would suffice. Petitioner was Lecturer (Sanskrit) in Ganna Vikas Inter College Munderwa, Basti, which is governed by the Provisions of U.P. Intermediate Education Act, 1921 and Regulations framed therein. The institution receives aid out of the State fund and as such the provisions of U.P. Payment of Salaries of Teachers and Others Employees Act, 1971 are also applicable. Petitioner reached his age of superannuation on 30.6.2006. His papers for post retiral benefits were forwarded to the Competent Authority viz. Joint Director of Education (Madhyamik), Basti. The order for payment of his pension was passed on 19.9.2006 and by a separate order dated 7.9.2006 his G.P.F. was also paid.

2. The grievance of the petitioner was that he was entitled for higher amount. He was also entitled for Rs. 31,749/- against his G.P.F. which has been illegally deducted. He had made a representation for the said fact dated 25.3.2008 and 27.8.2008, which have been brought on record as Annexure Nos. 9 and 10 to the

writ petition. When no action was taken, the petitioner, approached this Court by means of Writ Petition No. 23649 of 2007 which was disposed of on 18.5.2007 with a direction to the Joint Director to consider the grievance of the petitioner.

3. In compliance of the said order dated 18.5.2007, the impugned order has been passed by the Joint Director. It is recorded by the Joint Director in his order that the Committee of Management had forwarded the papers for payment of Rs. 6,48,690/-. However, he was found entitled for the payment of Rs. 6,38,251/- only on the ground that in the revised pay-scale the arrear of the petitioner has been entered into the lesser in March 1999. The said amount has been deposited in February 2001 in the account of the petitioner. Therefore, the petitioner has been deprived for the interest on delayed payment and the amount from 1999 to 2001.

4. I have heard Sri P.C. Singh, learned counsel for the petitioner and Sri J.K. Tiwari, learned standing counsel for the respondents.

Learned counsel for the petitioner submits that the duty of the office of District Inspector of Schools to deposit the petitioner's G.P.F. amount within time i.e. in 1999 when it was entered into the lesser. However, the said amount has been deposited in February, 2001. He has further urged that petitioner's pay scale has been wrongly fixed.

5. Sri J.K. Tiwari, learned counsel for the respondents submits that Committee of Management is the Competent Authority and it has not been impleaded in the writ petition. He further urged that the delay was on the part of Committee of Management which is evident from the order of Joint Director. Therefore, the liability for the payment of the interest on delayed deposit of G.P.G. lies on the Committee of Management and not the State.

6. I have heard the submission of respective parties and perused the record.

As regards the wrong pay fixation of the petitioner is concerned, the petitioner himself has submitted his consent dated 12.9.2006 wherein he has mentioned that if there is any error in his pay fixation it may be rectified/corrected. Thus the said issue cannot be re-open by the petitioner at this stage.

As regards the submission of G.P.F. is concerned, I find the submissions of learned counsel for the petitioner has considerable force. It is admitted fact that the amount of G.P.F. has been deposited in February, 2001 whereas it ought to have been deposited in March 1999. In the impugned order a finding has been recorded that there was a delay of three years. However, for the said delay, the petitioner cannot be held to be responsible and as such he should not be made to suffer on account of fault either of the office of District Inspector of Schools and Committee of Management.

In the impugned order, this aspect has not been adverted to by the Joint Director and he has left the petitioner to suffer without any justifiable reason.

In view of aforesaid facts, it is in the interest of justice that the matter may be remitted to the Joint Director to decide the matter afresh after giving opportunity of hearing to the petitioner, office of District Inspector of Schools and Committee of Management. The Joint Director shall fix the responsibility for the delay and he will pass appropriate order for the payment of interest of delayed payment against the person/authority whoever is found responsible for the delay.

The said exercise shall be undertaken by the Joint Director within three months from the date of communication of this order.

The impugned order dated 23.8.2007 is set aside.

The writ petition is allowed. No order as to costs.