
(2014) 09 RAJ CK 0044

In the Rajasthan High Court

Case No : Special Appeal (W) No. 738 of 2014

Bundi Central Co-operative Bank

APPELLANT

Vs

Mahesh Kumar Mangal

RESPONDENT

Date of Decision : 01-09-2014

Acts Referred:

Payment of Gratuity Act, 1972 — Section 4(3)

Citation : (2014) 143 FLR 995

Hon'ble Judges : J.K. Ranka, J;Ajay Rastogi, J

Bench : Division Bench

Judgement

Ajay Rastogi and J.K. Ranka, JJ.—Instant appeal has been filed against the order of the Id. Single Judge dt. 19.2.2014 directing the appellant bank to pay full amount of gratuity taking note of amendment made under section 4(3) of the Payment of Gratuity Act, 1972 substituted by Act 15 of 2010 with effect from 24.5.2010 substituting the maximum limit of Rs. 10 lacs instead of Rs. 3.50 lacs.

Respondent was substantive employee of the Bank and while holding the post of Branch Manager stood retired from service on 31.8.2010 after attaining age of superannuation. It can be noticed by this Court that vide order dt. 11.7.2012, the pay scale of the bank employees stood revised from 1.1.2009 and indisputably the date from which the revision of pay scale to the post of Branch Manager has given effect to, the respondent was in service and was entitled for fixation and whatever benefits flowing thereof made available to him under law.

After the respondent stood retired from service, the appellant-bank did not chose to take note of amendment of section 4(3) of the Act, 1972 which indisputably came into force before his retirement from service and gratuity was paid of the post on the basis of pay scale he was discharging duties but the revision which has taken place from 1.1.2009 by the appellant-bank vide its order dt. 11.1.2011 was not taken note of and this fact is not in dispute that if benefit of revision of pay which was given effect to from 1.1.2009 is taken note of, he is entitled to get maximum limit of gratuity which is fixed after amendment under section 4(3) of

the Act, 1972.

2. The main thrust of submission of the appellant before the Court is that the pay scale stood revised from 1.1.2009 he will not be entitled for actual benefits as prayed for and the incumbent will get notional fixation and benefit flowing thereof and since the respondent stood retired from service on 31.8.2010 he will be entitled to get notional benefits on account of revision of pay which he was getting on 1.1.2009.

3. The learned Single Judge took note of the submission and arrived to the conclusion that the employee was entitled for full gratuity of Rupees ten lacs and balance amount which has been withheld by the appellant as per provisions of the Act 1972 and took note of interest over balance amount which indisputably was unpaid.

4. Apart from what is being observed by the Ld. Single Judge, once this fact remain indisputed that the pay of the post of Manager stood revised from 1.1.2009 and the respondent was in service on 1.1.2009 when the revision of pay has been given effect to he will certainly be entitled for benefits flowing thereof on account of revision of pay scale w.e.f. 1.1.2009 and this fact remain indisputed that the pay scale after stood revised in terms of the order of the bank w.e.f. 1.1.2009 he may be entitled for notional benefits but as he stood retired on 31.8.2010 that will certainly make him entitled for full gratuity to which he becomes entitled for under the provisions of under section 4(3) of the Act, 1972 and this what the learned Single Judge has considered in passing of the order impugned and as regard interest is concerned, the Act, 1972 itself provide interest over the delay in payment to which the incumbent is entitled for.

5. We have heard the parties present in person and also took note of the order of the Ld. Single Judge and do not find any error apparent in the order impugned which may require interference by this Court. Consequently, the special appeal being devoid of merit is accordingly dismissed. Since the respondent stood retired way back in August, 2010, we direct the appellant-bank to comply the order passed by the Ld. Single Judge and make payment in terms thereof within a period of one month from today.