(1993) 01 KL CK 0018

In the High Court Of Kerala

Case No : O.P.NO. 7729 Of 1988

C. N. Gopala Kurup — APPELLANT

Vs

K.S. E. B. and others. — RESPONDENT

Date of Decision : 14-01-1993

Acts Referred:

Citation : (1993) 1 KLJ 968

Hon'ble Judges : P. A. Mohammed, J

Bench : Single Bench

Advocate : K.A. Abdul Gafoor, for the Appellant; M. Rajasekharan Nair, for the Respondent

Judgement

P. A. Mohammed, J.—An employee of the Kerala State Electricity Board is the writ petitioner. At the time of retirement he was working as Superintendent of Stores at the Regional Stores, Aluva. He retired from service with effect from 30-4-1987. He had submitted all the required documents well in advance for obtaining the retirement benefits. However, his final non-liability certificate was not issued by the office with the result the benefits due to him were withheld. When approached the authorities concerned, he was told that the terminal benefits had been withheld since the disciplinary action was pending against him. The allegation was that he was responsible for the loss of 17 pieces of MS Angles valued at Rs. 12,124/-. Though Ext. P2 charge memo was issued on 21-6-1985 disciplinary action was not finalised before the retirement. It was in that background the present writ petition was filed. There are two main prayers in the writ petition. It was prayed in the first place for a direction to the respondents to disburse the entire retirement benefits with 16% interest. In the second place, it was prayed, for a direction to the second respondent to finalise the disciplinary proceedings initiated as per Ext. P2.

2. In C. M. P. No 23814/88 this court had issued the following directions to the respondents:

(i) In case provisional pension had already been sanctioned, arrears of such provisional pension shall be disbursed to the petitioner.

(ii) The amount due to the petitioner as D. C. R. Gratuity less the sum of Rs. 12,124/- being the liability allegedly fixed against the petitioner (according to the instruction received by learned Standing Counsel for the respondents) shall be paid to him.

(iii) Respondents shall ensure the payment of the aforesaid amounts to the petitioner within three weeks from today.

The petitioner bad admitted before this court that he had received the entire terminal benefits except a sum of 12,124/- pursuant to the aforesaid order. Therefore his subsisting grievances are only in relation to the disciplinary proceedings and disbursement of interest on terminal benefits.

3. As far as the disciplinary proceedings are concerned, the learned counsel appearing for the petitioner submitted before me that as against order dated 8-3-1989 imposing penalty, an appeal had been filed before the Chairman of the Board. If that is so this court at this stage need not go into the validity or otherwise of the disciplinary proceedings. In that situation what is just and proper would be to direct the Chairman of the Board to dispose of the appeal as expeditiously as possible and to make the disbursement of the balance retirement benefit viz. Rs. 12,124/- subject to the result of the aforesaid appeal.

4. The question now remains to be considered is whether the petitioner is entitled to get the interest on the amount due by way of terminal benefits. The ''interest'' in the wider sense of the term is the return or compensation for the use or retention of another''s money. No doubt what is claimed here is not the interest ex contractu. It is claimed in view of the decisions of the courts.

5. The Supreme Court in State of Kerala and Others Vs. M. Padmanabhan Nair, observed that the pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but they are valuable rights and property in their hands. The court therefore said:

...any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

Pursuant to the above decision the Government of Kerala issued a Circular dated 10-4-1985 in relation to the payment of penal interest incases of delayed settlement and disbursement of pensionary claims in the case of govern-met servants. The operative portion of the said Circular is extracted hereunder:

In the circumstances all pension sanctioning authorities and Heads of Departments are requested to strictly follow the instructions so far issued and to settle pensionary claims without delay. The documents necessary for the sanctioning of pension and gratuity should be prepared sufficiently earlier so that payment of gratuity amount could be made to the Government servant on the date he retires or on the following day. If in any case Government is forced to pay penal interest due to specific lapse on the part of any officer, he will be held responsible for it and the amount will be recouped from him.

I see no reason for not applying the above position as regards the payment of penal interest in the case of employees under the Kerala State Electricity Board. That being so, the petitioner is entitled to get the interest on the amount due on account of retirement benefits. In the present case the retirement benefits had been withheld on the ground than the disciplinary proceedings were at the time of retirement.

In fact the charge memo was issued on 21-6-1985. The petitioner had retired from service on 30-4-1987. The disciplinary proceedings were completed on 8-3-1989, that is to say, after the retirement. The departmental authorities are normally responsible for the delay in completing the disciplinary proceedings. The delay in the present case is culpable and no explanation is forthcoming in that regard. In these circumstances, I am compelled to observe that the delay in the payment of the retirement benefits was caused due to the laches of the respondents. That being so, the petitioner is entitled to get the interest on the sum payable as retirement benefits at the market rate. He has claimed the interest at the rate of 16%. No opposition is made as to the aforesaid rate of interest, in the counter affidavit. In that situation it is only proper to hold that the petitioner is entitled to get 16% interest on the amount due as terminal benefits excluding Rs. 12,124/- from 1-7-1987 till the date of payment. No other orders are necessary in this Original Petition. It is therefore disposed of as above. No order as to costs.