
(1983) 08 DEL CK 0009

In the Delhi High Court

Case No : Civil Writ Appeal No. 427 of 1983

Desein (New Delhi) (P) Ltd. and Others

APPELLANT

Vs

Regional Provident Fund Commissioner

RESPONDENT

Date of Decision : 17-08-1983

Acts Referred:

Citation : (1983) 5 DRJ 330

Hon'ble Judges : Rajinder Sachar, J; Jagdish Chandra, J

Bench : Division Bench

Advocate : G.K. Sharma, R.C. Chawla and Suchitra Chawla, for the Appellant;

Judgement

Rajindar Sachar, J.

(1) :-RULE D.B. The petitioner challenges the fixation of the pension. This is one of those unfortunate cases where there is delay in giving the pension/contribution by the Central Government. The suffering is to the deceased dependent's. It is a case of pure and simple callousness. The deceased-husband of petitioner No. 2 was an employee of an Establishment which was given notice on October 27, 1973, that as per the enquiry by the Regional Provident Fund Commissioner the employees' provident fund and family pension fund were applicable to the pension from 14-6-67 and that it was liable to pay contribution for both with effect from 1-7-1972. (A specific direction was given that the Establishment comply with the requirements on an employee's provident fund and family pension fund and the scheme now sought with effect from 1-7-1972. Not only that a memorandum was issued on July 23, 1975 u/s 14-B of the Act which is attached as P-3. This shows that the damages were imposed on the Establishment with effect 1-7-1972. It was alleged that the petitioner's contribution for the provident fund and the family pension fund was belated. It is common case that the petitioner establishment paid the amounts including the damages from July 1972 onwards. In the counter-affidavit it is so admitted Notwithstanding this when the deceased died on 12-2-1980, the respondent has calculated for the period counted from 1-10-1973. The petitioner's case is that it

should have been calculated from 1-7-1972, i e. from the date of actual contribution for the family pension fund was paid and was also received by the respondent. The receipt of the amount as per P-3 is not disputed by Mr.Chawla. Nevertheless, surprisingly a statement is made in the counter-affidavit that the respondent has not accepted any contribution from 1-7-1972 to 30-9-1972 in family pension account and that all the money in respect of the petitioner was accepted to and credited in the Provident Fund Account. Realizing that this may be an utterly false statement a further effort is made to over-reach the Court by saying in the reply that the money deposited by the petitioner for this period has already been transferred from the family pension account to provident fund account. This clearly shows that the amount from 1-7-1972 onwards was received and placed in the family pension account but later on for undisclosed reasons the amount seems to have been transferred to the Provident Fund. As to and under what circumstances and under what provision of law this was done, the counsel for the respondent is unable to specify. We shudder to think that this device .was adopted by a Statutory Body to reduce the claim for pension. Mr. Chawla says that part of contribution by Central Government will be received from 1-10-1973 (the establishment was given notice On 27-10-1973), and that is why date for pension has been taken that date. There is no justification whatsoever at all for not calculating pension from 1-7-1972 when money has been received from that date. Contribution to pension fund having been demanded and received from 1-7-1972, the reckonable service for the purpose of calculating the pension commences from 1-7-1972 and the petitioner No. 2, the widow of the deceased, is entitled to the pension calculated in such a manner from that date. The respondent's effort to deny it is clearly untenable. Writ of mandamus is issued directing the respondent to calculate the reckonable service for payment of pension from 1-7 1972 onwards The revised pension amount with the arrears must be paid to the petitioner No. 2 within two weeks from today. The petition is allowed. The petitioner No. 2 is entitled to costs Counsel's fee Rs. 500.00 .