

(2012) 05 MP CK 0096
In the Madhya Pradesh High Court
Case No : W.A. No. 1204 of 2010

Dr. Hari Singh Gaur Vishwavidyalaya, Sagar	APPELLANT
Vs	
Dr. B.D. Mishra and Others	RESPONDENT

Date of Decision : 03-05-2012

Acts Referred:

Citation : (2012) 3 MPJR 170 : (2013) 2 SCT 424

Hon'ble Judges : R.S. Jha, J;Ajit Singh, J

Bench : Division Bench

Advocate : Shobha Menon, with Mr. C.A. Thomas, for the Appellant; B.D. Mishra present in person, for the Respondent

Judgement

Ajit Singh, J.—This writ appeal is directed against the order dated 3.3.2009 passed in writ Petition No. 6479/2001 by the learned Single Judge of this High Court insofar as it directs the appellant to pay respondent No. 1 interest @ 12% p.a. on the provident fund dues. Respondent No. 1 joined the services of appellant Dr. Hari Singh Gaur Vishwavidyalaya, Sagar, on 11.11.1967 as a lecturer. Thereafter he worked as professor and Dean and retired after 30 years of service on 31.1.1998. At the time of retirement he was holding the post of professor and Head, Department of Linguistics. Since he was not paid retrial dues, he approached the consumer forum but there he could not succeed on the ground that it had no jurisdiction to decide the matter. He, therefore, filed Writ Petition No. 6479/2001 for issuing directions against the appellant to pay his retrial dues along with interest. Respondent No. 1 in the writ petition categorically pleaded that he was entitled for 12% p.a. interest on the provident fund but was paid only 4 per cent. The learned Judge by the impugned order allowed the writ petition of respondent No. 1 directing the appellant to grant following reliefs to him:

(i) Interest @ 12% p.a. on the provident fund dues of the petitioner from the date due to be paid till actual payment was effected.

(ii) Interest at the rate notified and as per the circular dated 11/10/ 1999 (Annexure P-29) on the arrears of salary to be paid to the petitioner after revision of pay scale.

(iii) Interest @9% p.a. on the revised pension after refixation of pay w.e.f. 01/05/1998 till actual payment.

2. It is not in dispute that the appellant has now granted respondent No. 1 the benefits enumerated in the above quoted direction nos. (ii) and (iii).

3. In the present appeal, the appellant is aggrieved only with regard to benefit granted by the learned Judge in favour of respondent No. 1 as per above mentioned direction No. (i).

4. The question, therefore, which call for our consideration is whether the appellant is liable to pay respondent No. 1 interest @ 12% p.a. on the provident fund dues.

5. Statute on 26 of the appellant deals with provident fund. It is in force with effect from 1.12.1973. In para 1 (e) of this statute, interest is defined as under:

1(e) "Interest" means the interest which is paid on a deposit in the saving bank of the post office or the scheduled banks from time to time.

6. Para 2 of the statute, which is also relevant, originally read as under:

2. Every employee of the University shall subscribe to the Provident Fund at the rate of 8 1/2% of his salary for which an account will be opened in the saving Bank. The deduction shall be made by the University upon every salary bill presented. In the calculation of this deduction, fractions of a rupee shall be omitted. The amount so deducted together with the contribution by the University under para 3 shall be deposited in the Saving Bank. The payments in respect of the monthly deductions and contributions shall, so far as possible, be made into the bank within two days of the receipt of the money in order that interest may accrue. The following procedure will be adopted:-

The post Office or the scheduled bank will open an account in the name of the individual subscriber to the provident fund. The account will be operated by the Registrar only and all sums to be credited in these accounts shall be sent to the post Office or the Bank accompanied by-

(a) Savings Bank pass book; and

(b) a list in such form as may be prescribed by the Registrar showing in detail the amount to be credited to each account.

NOTE :-

(i) Subscribers to the Provident Fund are given option of raising their subscription to the Provident Fund upto any amount not exceeding the pay drawn by them.

(ii) A subscriber may, at his option, not subscribe during leave. He shall intimate his election not to subscribe during leave by written communication to the Registrar before proceeding on leave. Failure to make due and timely intimation shall be deemed to constitute an election to subscribe during leave. The subscription of the subscriber while on leave with allowance shall be assessed on the full amount of his pay and not on the leave salary.

(iii) No subscriber shall subscribe to the fund while on leave on half average pay or leave without pay or absent without leave or while under suspension.

7. The above quoted para 2 was later amended with effect from 1.4.1987 by adding the following:

The amount of subscription of the employee will be so invested by the Registrar in Post Office or Bank that the employee gets an interest of not less than 12% per annum or the rates of interest decided by the State Government from time to time on his accumulations in fund. In case, the rate of interest falls short of the rate of 12% per annum or the rate as fixed by the government from time to time as calculated on G.P.E. accounts, the difference shall be made good by the University from the pension & gratuity fund (UNIPENGRAF) after obtaining prior approval from the Finance Officer (Pension) of M.P. Uchaha Shiksha Anudan Ayog.

8. From the reading of the above mentioned amendment, it is clear that from 1.4.1987 the amount of subscription of the employee shall be so invested by the Registrar of appellant in Post Office or Bank that the employee gets an interest of not less than 12% p.a. or the rates of interest decided by the State Government from time to time on his accumulations in fund. Not only this, it also makes clear that in case the rate of interest falls short of the rate of 12% p.a. or the rate as fixed by the government from time to time as calculated on G.P.F. accounts, the difference shall be made good by the appellant from the pension the Finance Officer (Pension) of M.P. Uchacha Shiksha Anudan Ayog.

9. Thus, we hold that respondent No. 1 will be entitled for 12% p.a. interest on his provident fund only with effect from 1.4.1987 and not from earlier date. The interest earlier to 1.4.1987 payable to respondent No. 1 will be the interest which was being paid on a deposit in the bank from time to time. The order dated 3.3.2009 of the learned Judge stands modified to the above extent. The appeal is finally disposed of.