
(2014) 04 RAJ CK 0076

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 1098 of 2013

Jai Narain Vyas University

APPELLANT

Vs

Hameer Singh Sodha

RESPONDENT

Date of Decision : 03-04-2014

Acts Referred:

Citation : (2014) 2 CDR 1190 : (2014) 142 FLR 616 : (2015) 3 RLW 1959 :
(2014) 3 SCT 228 : (2014) 3 WLN 296

Hon'ble Judges : Dinesh Maheshwari, J; Banwari Lal Sharma, J

Bench : Division Bench

Advocate : Mukesh Rajpurohit, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Dinesh Maheshwari, J.—This appeal is reportedly time-barred by 4 days. An application (CMCW No. 376/2013) has been filed seeking condonation of delay while stating that extra time was consumed in procuring the necessary documents and in drafting the memo of appeal.

2. Though the grounds as suggested are not of cogent and sufficient cause but we have ignored the delay in filing the appeal, so as to consider the matter on its merits.

3. After having heard the learned counsel appearing for the appellant-University and after having perused the material placed on record, we are unable to find even a wee bit of reason to consider interference in the justified order dated 21.08.2013, as passed by the learned Single Judge of this Court in CWP No. 12510/2012.

4. The sum and substance of the matter is that the writ-petitioner (respondent No. 1 herein), a retired employee, filed the writ petition aforesaid seeking payment of the arrears of salary due to him as also interest on delayed payment of gratuity, pension, leave encashment, commutation and other retiral benefits, as per the scheme of the Rajasthan Civil Services (Pension) Rules, 1996 ("the

Rules of 1996").

5. Though, it appears that the claim regarding arrears was satisfied during the pendency of the writ petition but then, so far the question of the interest was concerned, the only justification on behalf of the University for the delay in payment of retiral benefits had been that "due to non-availability of funds from the Government, the dues were not paid."

6. The learned Single Judge found the reason as assigned totally irrelevant and found it unjustified that the retiral benefits were paid to the employee after an inordinate delay; and hence, directed the appellant University to pay interest upon such delayed payment in accordance with the rules. The learned Single Judge, inter alia, observed and directed as under:

After hearing learned counsel for the parties, I am of the opinion that after retirement, it is the duty of the employer to pay all the dues of an employee within reasonable time otherwise as per rules employee becomes entitle for the interest. Here in this case, admittedly, the dues of retiral benefits as prayed in this writ petition have been paid during the pendency of this writ petition, therefore, obviously there is delay in payment of dues of retiral benefits, so also the pension which is paid after delay of more than two or three years.

In view of above, this Court is of the opinion that reasons disclosed in the reply for non-payment of dues is not justified, therefore, this writ petition is disposed of with the direction to the respondents to pay interest upon the delayed payment of retiral benefits in accordance with rules within a period of two months from the date of receipt of certified copy of this order, if not already paid.

7. The only ground suggested in challenge to the order aforesaid is that the delay in payment of retiral benefit to the employee concerned had been on account of the fact that the requisite funds were not made available by the State Government. The submission hardly makes out a case for interference.

8. It inheres in every scheme for determination and authorization of the payment of retiral benefits that the necessary exercise is undertaken much in advance before the due date of retirement of the employee concerned so that the payment of retiral benefits is authorized at the earliest. The provisions like those contained in Rule 89 of the Rules of 1996 have been inserted to safeguard the rights of the retiring employees and when it is clear that the delay in payment is not on account of failure on the part of the employee to comply with the requirements of the rules, the interest at the given rate is payable. In all case of delayed payment of retiral benefits, when the delay is on account of administrative lapses or inactions, the concerned administrative department is not only to issue sanction for payment of interest but also to fix the responsibility for the delay and to recover the loss due to the payment of interest from the persons responsible.

9. It is clear from the facts of the present case that there had not been any fault

whatsoever on the part of the employee concerned. As to how the requisite funds were to be obtained/transferred was essentially a matter between the University and the Government. Any delay in obtaining or providing the funds could only be referred to some administrative inaction/lapse, but with no fault on the part of the employee concerned.

10. In the given facts and circumstances and on the admitted position that there had been excessive delay in payment of retiral dues to the employee for none of his fault, the order passed by the learned Single Judge remains just and proper; and does not call for any interference. The appeal fails and is, therefore, dismissed.