
(1991) 10 AHC CK 0032
In the Allahabad High Court
Case No : C.M.W.P. No. 13082 of 1987

Jai Prakash Gupta

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 07-10-1991

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 2 LLJ 35

Hon'ble Judges : B.M. Lal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.M. Lal, J.—By this petition under Article 226 of the Constitution, the petitioner seeks a writ of Mandamus directing the respondents to pay his salary.

2. In short the case of the petitioner is that he is employed as a clerk in the Sales Tax Department, and was posted at the relevant time at Chandausi. By order dated October 6, 1986 he was transferred from Chandausi to Bareilly, in pursuance whereof he joined at Bareilly on October 10, 1986. However Just after ten days on October 20, 1986 he was again retransferred from Bareilly to Chandausi. This order of transfer was also complied with by him and he joined at Chandausi on November 10, 1986. Again on January 12, 1987 the petitioner was transferred from Chandausi to Moradabad and he accordingly joined at Moradabad on January 27, 1987.

3. It is complained that since July 1, 1986 the petitioner is not receiving his salary. He made representation after representation, but of no avail, and hence this petition seeking a writ as stated above.

4. In the counter-affidavit filed on behalf of the respondents, it is simply stated that since the petitioner has not been assigned any work, therefore, his salary has not been paid. This cannot be a ground for withholding the payment of his salary. Since he has complied with the orders of his transfer and joined at

Bareilly, Chandausi and thereafter at Moradabad, he is entitled for his monthly emoluments. Further since the respondents have not justified their stand in withholding the payment of salary to the petitioner, in the opinion of this Court, he is also entitled to interest on the arrears of his salary illegally withheld by the respondents since July 1, 1986 so as to indemnify the loss suffered by him. The court can grant interest on the principles of justice, equity and good conscience. See *The Hindustan Commercial Bank Ltd. Vs. Jagtar Singh, and Gupta Pvt. Loan Committee and Others Vs. Smt. Sumitra Devi*, The opinion of this court also gets support with the view expressed by the Apex Court in *Life Insurance Corporation of India v. Gangadhar Vishwanath Ranade* (AIR) 1990 SC 185.

5. In the circumstances, the respondents are directed to make payment of arrears of salary to the petitioner alongwith interest thereon @ 15% per annum within a period of one month from the date of presentation of a certified copy of this order and continue to pay the current salary as and when it becomes due. The interest shall be calculated upon the salary fallen due from month to month and not on total accumulated sum.

6. Here, it is made clear that the State Government, if so advised or think it proper, may initiate departmental proceedings against the officers found responsible for withholding the payment of salary to the petitioner right from July 1, 1986 till date.

7. In the result, the petition succeeds and is allowed at the admission stage.