(2014) 11 KL CK 0034

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 26411 of 2014 (B)

K.S. Parameswaran APPELLANT

Vs

State of Kerala RESPONDENT

Date of Decision : 04-11-2014

Acts Referred:

Citation : (2014) 11 KL CK 0034

Hon'ble Judges : Dama Seshadri Naidu, J

Bench : Single Bench

Advocate : Shaji P. Chaly, K.S. Sumitha, K. Jasmin Baby, S. Gopakumar, R. Sanjith, C.S. Sindhu Krishnah and M. Shino, Advocate for the Appellant; M.A. Fayaz, Senior Government Pleader and Babu Joseph Kuruvathazha, S.C, Advocate for the Respondent

Judgement

Dama Seshadri Naidu, J.—The petitioners have approached this Court, having lost their substantial source of income, the salary, on retirement, when the respondent University, their employer, kept them on an interminable wait for what is otherwise their legitimate right, the retirement benefits. For one reason or another, the delays, more often than not, occur in the matters of settling the terminal benefits of the superannuated staff, the respondent University being no exception. This case is yet another such example as to illustrate the plight of the retired employees.

2. Briefly stated, the petitioners, as the records reveal, retired from service on attaining the age of superannuation in 2012 from Kerala Agricultural University, their employer. Despite the lapse of more than a year from the date of their retirement, so far, the terminal benefits of the first petitioner have not been settled. All the efforts before the authorities bearing no fruit, the petitioners have approached this Court by filing the present writ petition.

3. In response to the submissions of the learned counsel for the petitioners that the delay on the part of the authorities in disbursing the terminal benefits to the retired employees is unjustified, the learned Standing Counsel has stated that

the respondent University does not have any intention of holding back any of the terminal benefits of the retired employees, but for the financial crunch inasmuch as the University is dependent on the Government for funds. In other words, the entire contention or defence on the part of the learned Standing Counsel for the University is that owing to lack of funds, the issue cannot be settled.

4. The learned counsel for the petitioners has brought to my notice a judgment of this Court in W.P. (C) No. 27285/2014 and batch, disposed of on 20.02.2014, per a learned Single Judge, under identical circumstances. This Court, on that occasion, has observed that it is for the University to find out its own resources for payment of terminal benefits due to the retired employees, and that the University cannot deny payment of retiral benefits to its employees on the pretext of financial stringency. I am in respectful agreement with the said opinion.

5. It is further pertinent to observe that, eventually, the learned Single Judge has issued the following direction in the judgment referred to above, and the same is as follows:

"[K]erala University [is] to formulate a priority lit of employees retired as on date, to whom payment of terminal benefits are pending due, based on their date of retirement. Eligible amounts due to the persons included in the list shall be paid within a period from 2 months to 6 months from today onwards. Payments after settling claims of each persons shall be made starting from today and all such persons included in the list shall be paid the benefits within an outer [time] limit of 6 months from today."

Indeed, in the present instance, the respondents are directed to follow the above procedure and settle the retiral benefits of the first petitioner as well.

6. At this juncture, it is further brought to the notice of this Court that despite the time frame fixed in the judgment dated 20.02.2014, so far, the respondent University has not complied with the direction of this Court in that batch of writ petitions. If there is any infraction, it is for the parties aggrieved to take remedial steps in that regard.

7. In so far as the second petitioner is concerned, it is stated across the Bar that the entire retirement benefits have been paid, except Rs. 55,000/- which is said to have been withheld on account of an objection raised by the Audit Department. The learned counsel for the petitioners seeks leave to preserve the right of the second petitioner to lay a challenge against the withholding of the said amount, if necessary. Accordingly, in so far as the second petitioner, this Court makes it clear that he can pursue the authorities for release of the said amount and further pursue other legal permissible remedies, if he could not succeed in his efforts to get the amount released at the earliest.

Be that as it may, this Court, having not been inclined to take a different view, disposes this writ petition in the same lines as has been done in W.P. (C) No. 27285/2013. In this context, it is made clear that if the authorities fail to settle the issue within three months as has been originally provided, the first petitioner is entitled to 6% interest on the amounts due after the lapse of initial period of three months. No order as to costs.

