
(2002) 02 AHC CK 0022
In the Allahabad High Court
Case No : C.M.W.P. No. 8088 of 1996

Lal Bahadur

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 25-02-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 409

Citation : (2002) 2 AWC 1294 : (2002) 94 FLR 1216

Hon'ble Judges : R.B. Misra, J

Bench : Single Bench

Advocate : Anita Tripathi, for the Appellant; S.S. Sharma, S.C., for the Respondent

Judgement

R.B. Misra, J.—By the writ petition the petitioner seeks direction in the nature of mandamus commanding the respondents to pay the Pension, Gratuity, G.P.F. and other consequential benefits.

2. Heard Smt. Anita Tripathi, learned advocate for the petitioner as well as Sri. S. S. Sharma, learned counsel for the State.

3. The brief facts necessary for adjudication of the writ petition are that petitioner whose date of birth is 8.3.1937, joined as Collection Amin at Tehsil Itwa, in Basti (and now after bifurcation, district Siddharth Nagar) on 22.4.1963 and worked on different places and after completing 58 years of age he retired on 31st March. 1995. According to him, at the time of retirement, he gave his charge to his senior authorities and deposited the receipt of Revenue on 31.3.1995 as well as all the books and jamabandi which were in his possession (Annexures-2 and 3 to the writ petition). According to him, his work. conduct was to the satisfaction of the authority concerned : however, even after expiry of 11 months, no Pension, Gratuity and G.P.F. were paid to him, no heed was taken on his representation to the District Magistrate, Siddharth Nagar as well as Sub-Divisional Magistrate, concerned. Therefore, the petitioner filed this writ petition.

4. According to para 4 of the first supplementary affidavit after the retirement, the petitioner has deposited entire papers and accordingly a "no dues certificate" was issued to him but a first information report was lodged against him under Sections 467, 468 and 420, I.P.C. alleging therein that the jamabandi of 1397F., 1398F. and 1401 F, and some receipts relating to 1399F. and 1401F. had not been deposited by the petitioner. It has been contended in para 5 that the statements of Sri Raj Bahadur Lal, Nayab Tehsildar, Itwa, Sri Ram Kesh Chaudhary, Head Clerk, Tehsil Itwa and Sri Kamlesh Kumar Dwivedi, the Tehsildar were recorded and the Investigating Officer has come to the conclusion that no case under Sections 467, 468 and 420, I.P.C. as alleged has been made out against the petitioner, but a case u/s 409. I.P.C. was made out and a charge-sheet was filed on 2.11.1995 and accordingly the Police Report, a Criminal Case No. 602 of 1996 u/s 409, I.P.C. P. S. Trilokpur, district Siddharth Nagar was registered against the petitioner in reference to the Chief Judicial Magistrate, Siddharth Nagar which is still pending adjudication. It has also been indicated in para 8 of the supplementary-affidavit that until and unless the jamabandi and receipts are deposited, no fresh jamabandi/ receipts are issued to the official and even "Audit" was conducted at a interval of six months to verify the same. According to the petitioner, he has been falsely implicated as asserted in second supplementary-affidavit dated 6.12.2001. According to paras 5 and 6 of the same, it has been submitted that provisional pension has also not been paid in derogation to the G.O. No. 3-1679/Dus-80-909-76 (Vittya Samanya) dated 28.10.1980 (Annexure-1 to the second supplementary-affidavit). Perusal of para 2 of the above G.O. dated 28.10.1980 shall reveal :

^^bl iz"u ij xEHkhjrkiwoZd fopkj djus ds mijkUr rFkk bl ckr dks ns[krs gq, fd jkT; esa iz;qDr fu;eksa vkSj vkns"kkSa ds vUrxZr lkekU;r% Isokfuo`r deZpkjh dks isa"ku rFkk xzsP;qVh ds vfUre :i ls fu/kkZfjr u gks ldus ij vufUre isa"ku@xzsP;qVh Lohdkj fd;s tkus dh O;oLFkk gS] Jh jkT;iky egksn; us lg"kZ ;g vkns"k iznku fd;s gSaa fd Isokfuo`?k gksus okys ,sls jkT; deZpkfj;ksa dks] ftuds fo:) Isokfuo`r ds le; foHkkxh; U;kf;d dk;Zokgh vFkok iz"kkkluf/kdj.k@lrdZrk tkap py jgh gks vFkok fd;k tkuk visf{kr gks] vufUre isa"ku dk Hkqxrku vf/kd`r dj fn;k tk,] fdUrq xzsP;qVh dk Hkqxrku fdlh Hkh n"kk esa mDr dk;Zokgh ;k tkap iwjh gksus vkSj vfUre fu.kZ; gksus ds iwoZ u fd;k tk, A xzsP;qVh dh /kujkf"k ls og dVksfR;k dh tk;sxha ftudk mYys[k foHkkxh; izlklfud@dk;Zokgh bR;kfn ds QyLo:i ikfjr vksn"kkSa esa fd;k x;k gks A ,sls ekeyksa esa vufUre isa"ku dh Lohd`fr fuEu O;oLFkk ds v/khu ns; gksxh %

?1? vfUk?ke isa"ku ml /kujkf"k ds cjkcj gksxh tks mldh Isokfuo`r dh frfFk rd vkSj ;fn deZpkjh Isokfuo`r dh frfFk dks fuyfEcr gks rks mlds fuyEcu ds Bhd igys dh frfFk rd vgZdkjh Isokdky ds vuqlkj vuqeU; gksrh gks A

?2? ;g isa"ku Isokfuo`?k dh frfFk ls ml fnukad rd feysxh tc deZpkjh ds fo:) dk;Zokgh tkap iw.kZ gksus ij le{k vf/kdkjh }kjk vfUre vkns"k ikfjr dj fn, tk,] rFkk

?3? bl vufUre isa"ku dh dk;Zokgh iw.kZ gks tkus ds mijkUr vUrr% deZpkjh dks

Loh?r gksus okyh isa"ku esa lek;kstu dj fy;k tk;sxx fdUrq

;fn vfUre :i ls Loh?fr gksus okyh isa"ku dh jkf"k vufUre isa"ku ls de gks vFkok
ias"ku LFkk;h :i ls vFkok fdlh fuf"pr vof/k ds fy, de dj nh tk, ;k ;Fkkxr fd;k tk, rks
deZpkjh ls dksbZ olwyh ugha dh tk;sxx A

v/;k; ?9? isa"ku izf?;k] ifjokfjd ;kstuk] vkuqrksf"kd] jkf"kdj.k ,oa jkgr 515 ?125?
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5. It has been contended on behalf of the petitioner that the case of petitioner is on better footing because for issuance of provisional pension, some inquiry is to be contemplated at the line of averment as required by above G.O. whereas the allegations against the petitioner have been made after his retirement on 31.3.1995, therefore, the petitioner is at least entitled for provisional Pension. I find force in the contention of learned counsel for the petitioner to the extent that at least provisional pension/interim pension should have been extended to the petitioner and the authorities are not justified in withholding the same. However, the authorities are at liberty to conclude the enquiry against the petitioner expeditiously within six months in accordance with the law for which the petitioner shall render all possible co-operation and after conclusion of the enquiry, the post retiral benefits including pension, G.P.F.. Gratuity shall be given a financial shape in writing by the competent authority of the concerned department. In the meantime, the provisional pension is directed to be paid to the petitioner regularly treating him to have been retired on 31.3.1995.

6. In view of the above observation made above, the writ petition is disposed of accordingly. A certified copy of this order shall be supplied to the learned counsel for the petitioner on payment of usual charges.