

(2019) 10 J&K CK 0013

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 3713 Of 2019, CM No. 7706 Of 2019

Maharaj Krishan Walloo

APPELLANT

Vs

State Of Jammu & Kashmir And Others

RESPONDENT

Date of Decision : 09-10-2019

Acts Referred:

Civil Services Regulations Of 1956 — Rule 242
Civil Services Regulations Of 1956 — Article 242

Citation : (2019) 10 J&K CK 0013

Hon'ble Judges : Tashi Rabstan, J

Bench : Single Bench

Advocate : Kapil Gupta, K.D.S.Kotwal, Vishal Sharma

Final Decision : Disposed Of

Judgement

Tashi Rabstan, J

1. Notice to the respondents. Mr. K.D.S.Kotwal, Dy.AG waives notice on behalf of respondent Nos. 1 to 3 and Mr. Vishal Sharma, ASGI for respondent No.4.

2. The petitioner through the medium of instant petition is seeking direction to the respondents to release all the retiral benefits including the gratuity and pension in favour of the petitioner on the basis of last pay drawn by him at the time of his superannuation and to pay the arrears of the pension while taking into consideration Rule 242 of the Civil Services Regulations of 1956 read with the judgment rendered by the Hon'ble Supreme Court of India in State of Punjab V Rafiq Masih and others passed in Civil Appeal No.11527/2014 on 18.12.2014.

3. Learned counsel for the petitioner contends that the respondents are under legal obligation to settle the pension case of the petitioner as per the last pay drawn under Article 242 of CSR governing the subject and as per the mandate the average emoluments in respect of a government servant are to be taken into consideration on the basis of last ten months pay and pension and other benefits are to be fixed accordingly. He further contends that in similar cases the

respondents have considered, but, ignored the same in case of the petitioner. Hence this petition on the grounds taken in it.

4. The petitioner while placing reliance on Article 242 of CSR Volume- 1, submits that he has already made request in this regard to respondent No.4, but, all in vain. Learned counsel for the petitioner submits that the petitioner would feel satisfied if respondent No.4 is called upon to take a decision on his request in light of the Article 242 of CSR Volume 1 and in view of other similar cases, which have already been settled by respondent No.4 within certain timeframe to which learned counsel appearing on behalf of the respondents are not averse to this proposition, except for their assertions that the respondents be directed to do the needful in terms of the law and the rules governing the field. Their statements are taken on record.

5. In view of the submissions made by the learned counsel for the parties and in the facts of the case, the writ petition is disposed of by permitting the petitioner to file a detailed representation supported by relevant documents including the judgment, if any, passed in similar cases and implemented by respondent No.4 within a period of two weeks from today. On receipt of such representation, the same shall be considered and decided by the respondents, particularly, respondent No.4 within a period of six weeks thereafter.

6. With the aforesaid directions, the writ petition is disposed of accordingly, along with connected CM(s), if any.