
(2010) 03 AHC CK 0267
In the Allahabad High Court
Case No : C.M.W.P. No. 54218 of 2007

Moti Lal Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-03-2010

Acts Referred:

Citation : (2010) 4 AWC 3947

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Amreshwar Pratap Sahi, J.—Heard learned Counsel for the petitioner, learned standing counsel and perused the affidavit filed on behalf of the respondents.

2. The petitioner attained his age of superannuation on 21.1.2006. While preparing his documents in relation to the post retiral benefits, deductions have been made from gratuity of the petitioner on the allegation that the petitioner has been paid salary in excess of what he was entitled due to wrong fixation in the year 1984. It is the said difference in amount which was sought to be deducted and accordingly the petitioner was informed by the respondents to that effect.

3. The writ petition has been filed primarily on the ground that no such deductions could have been made as there was no fault on the part of the petitioner nor was there any allegation of fraud or misrepresentation, and secondly the impugned order is in violation of principles of natural justice.

4. I have considered the aforesaid submissions and have also perused the affidavit and considered the stand of the State wherein it is alleged that the petitioner was wrongly given the pay scale of Rs. 450-540 from 1.7.1982 whereas the selection grade was admissible to the petitioner w.e.f. 1.5.1984.

5. The aforesaid fact as disclosed in the counter-affidavit indicates that it was on

account of erroneous calculation made by the respondents as admitted by them and there was no fraud or misrepresentation on the part of the petitioner. In such a situation, the deductions after 22 years from the retiral benefits of the petitioner is unjustified as held by the Apex Court in the case of Shyam Babu Verma and Others Vs. Union of India (UOI) and Others, Learned Counsel for the petitioner has also rightly relied upon a decision in the case of Writ Petition No. 15405 of 2007, Rajwant Singh v. State of U.P. and Ors. decided on 17.7.2008.

6. Accordingly the writ petition succeeds. The pay order dated 24.3.2006 directing deductions is hereby quashed. The petitioner shall be given an opportunity again to stake his claim with regard to other payments and he shall be reimbursed the amount which has been incorrectly deducted in terms of this Judgment within a period of 3 months from the date of production of a certified copy of this order before him. The petitioner claims interest. It is open to the petitioner to represent the matter to the department for the said claim and the same also be decided by the concerned authority within the same period.

The writ petition is allowed. No order as to costs.