
(2000) 04 SC CK 0199

In the Supreme Court Of India

Case No : Civil Appeal No. 3257 of 1998

Municipal Committee, Mansa, Punjab

APPELLANT

Vs

Darshan Singh and Others

RESPONDENT

Date of Decision : 27-04-2000

Acts Referred:

Citation : (2000) 86 FLR 741 : (2000) 7 JT 398 : (2000) 2 LLJ 1099 : (2000) 10 SCC 616 : (2001) SCC(L&S) 741

Hon'ble Judges : V. N. Khare, J;S. N. Phukan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

V.N. Khare, J.—Heard Counsel for the parties.

2. The Respondent herein was appointed as a Driver on a fixed salary of Rs. 80/ per month on 17th July, 1954. The Appellant Municipal Committee approved the said appointment on 16th September, 1954. It is alleged that with effect from 1st February, 1968 the Respondent was given for the first time the regular pay scale of Rs. 130-5-160-5-250 in view of the Third Pay Committee report. It is also alleged that the Respondent also started contributing towards Provident Fund with effect from 1st February, 1968. The Respondent retired on 30th June, 1994.

3. On 28th July, 1994 the State Government published rule known as Punjab Municipal Employees Pension and Generic Provident Fund Rules, which was enforced with effect from 1st April, 1990. It is alleged that an option was given under the Rules to the employees who were in the service of the Appellant-Board between 1st April, 1990 and the date of enforcement, to opt either for Provident Fund or for pension. In case an employee sought an option to have a pension, he was required to refund the contribution made by the Appellant along with the interest. In the present case, it appears that the Respondent opted for pension. However, this pension was given with effect from 1st February, 1968.

4. The Respondent's case was that he was in service with effect from 17th July,

1954 and as such the pension ought to have been given with effect from the said date. Under these circumstances, the Respondent filed a petition under Article 226 of the Constitution of India. The Appellant filed a written statement wherein the stand taken was that since the Respondent started his contribution towards Provident Fund with effect from 1st February, 1968, as such he would be entitled to pension with effect from the said date and not with effect from 17th July, 1954 under the Rules. The High Court, without considering the said stand of the Appellant, allowed the Writ Petition on the premise that the earlier order of appointment of the Respondent was not contractual. What was required to be seen by the High Court was whether the Respondent was entitled to have pension under the relevant Rules with effect from the date when he started his contribution towards Provident Fund or with effect from the date of his initial appointment. Since complete relevant Rules are not before us and such a question relates to a number of employees as stated, we think it would be appropriate to send the matter back to the High Court for considering the said question. Under such circumstances, the judgment under appeal is set aside. The matter is sent back to the High Court for considering as to whether the Respondent is entitled to pension under the relevant rules with effect from 1st February, 1968 or from the date of his initial appointment.

5. The appeal is allowed. There shall be no order as to costs.