
(2014) 07 SHI CK 0109
In the High Court Of Himachal Pradesh
Case No : CWP No. 3050/2014

Nek Ram

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 17-07-2014

Acts Referred:

Constitution of India, 1950 — Article 12, 300A

Citation : (2014) 07 SHI CK 0109

Hon'ble Judges : Sureshwar Thakur, J;Rajiv Sharma, J

Bench : Division Bench

Advocate : Neelam Thakur, Advocate for the Appellant; Shrawan Dogra, A.G., Anup Rattan, Addl. A.G. and Varun Chandel, Advocate for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—On 9.7.2014, reply was taken on record and the learned counsel appearing for the parties were heard at length. Inadvertently, instead of words "Arguments heard. Judgment reserved", the word "closed" was noted down in the order sheet. Therefore, in the order dated 9.7.2014, the word "closed" be read as "Arguments heard. Judgment reserved".

2. Petitioner was regularized as Clerk in the respondent-Corporation on 13.1.1978. He was promoted as Senior Assistant on 18.12.1997. Thereafter, he was promoted as Superintendent Grade-II on 7.5.2008. He superannuated as such on 30.6.2013. Respondent No. 3 issued pension payment order dated 4.1.2014 in favour of the petitioner. Respondent No. 3 also directed the Branch Manager, H.P. State Co-operative Bank Ltd. to release the payment of commuted value of pension amounting to Rs. 5,03,063/- in favour of the petitioner. He further asked the Branch Manager to release the pension @ Rs. 7512/- per month w.e.f. 1.7.2013. However, the respondent-Corporation is not paying the pension to the petitioner regularly. It is in these circumstances, the present petition has been filed for the release of the retiral/pensionary benefits.

3. According to the reply filed by the corporation, the amount sanctioned in favour of the petitioner could not be released due to financial crunch. The respondent-Corporation has already taken up the matter with the State Government for the sanction of Rs. 3100 lac to defray the liability of gratuity and leave encashment vide letter dated 8.5.2014.

4. The respondent-Corporation is State within the meaning of Article 12 of the Constitution of India. The petitioner is entitled to get his pensionary/retiral benefits in accordance with law within a reasonable period. The pension has already been sanctioned in favour of the petitioner, however, the same is not being paid to him regularly. The petitioner is getting a meagre pension of Rs. 7512/- per month. He has to feed his family from this meagre pension. It would be difficult for him to make both ends meet if this meagre pension is not released to the petitioner regularly. It may be true that there are financial crisis in the corporation. The Corporation is a commercial venture. It is for the respondent-Corporation to raise funds by running the corporation efficiently. Right to pension/retiral benefits including gratuity and leave encashment is a property within the meaning of Article 300A of the Constitution of India. The petitioner cannot be deprived of the same.

5. In view of analysis and observations made hereinabove, the writ petition is allowed. The respondents are directed to release all the pensionary/retiral benefits to the petitioner within a period of three months. Pension shall be released to the petitioner regularly on first day of each month. All the retiral and pensionary benefits shall carry interest at the rate of 9% per annum from the due date. Pending application(s), if any, also stands disposed of. No order as to costs.