

(2010) 08 AHC CK 0376
In the Allahabad High Court

Ram Lakhan Singh

APPELLANT

Vs

Sri Har Deo Singh, Director and Sthaneeya Nikay and Others

RESPONDENT

Date of Decision : 05-08-2010

Acts Referred:

Citation : (2010) 08 AHC CK 0376

Hon'ble Judges : Vikram Nath, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vikram Nath, J.—Heard the learned Counsel for the applicant and Sri S.D. Kautilya, learned Counsel appearing for the opposite parties.

2. The Writ Court vide judgment and order dated 19.8.2003 had allowed the writ petition of the applicant. The operative portion of the judgment reads as follows:

For the reasons stated above, the writ petition is allowed. The respondents are directed to pay arrears of revised pay scale and other retiral benefits to the petitioner within one month from today with 10% interest on the unpaid amount till the date of actual payment. If the amount is not paid within the aforesaid period by the respondent, the same shall be recovered as arrears of land revenue within further period of one month and paid to the petitioner by the Collector concerned.

3. In addition to the directions contained in the order dated 19.8.2003, the Writ Court had further provided vide order dated 26.5.2004 that the applicant would be entitled to the promotional pay scales w.e.f. 1.7.1994.

4. When the directions of the Writ Court were not being complied with the present contempt application was filed. Upon issue of notices a counter affidavit was filed in September, 2004. As per Annexure No. 3 to the counter affidavit, a statement has been annexed, giving details of the calculation. The Writ Court had awarded interest @ 10% on the unpaid amount till the date of actual

payment. From a perusal of the statement, referred to above, it appears that only 10% amount had been added as interest treating it to be as one time enhancement. The applicant admittedly retired in 1997. Even if it is treated that the amounts of the post retiral dues were payable in 1997 or on 1.1.1998, which admittedly were being calculated and paid in September, 2004 i.e. after a lapse of seven years, the calculation of interest is not in accordance with the directions contained in the judgment of the Writ Court. Thus there is clear disobedience on the part of the opposite parties by not paying the amounts due to the applicant as per the judgment of the Writ Court.

5. Sri Kautilya has submitted that a supplementary counter affidavit had been filed in April, 2009 and as per the averments made in that affidavit, has tried to justify that the amounts paid to the applicant are in accordance with the judgment of the Writ Court. The Court having perused the said record is not convinced.

6. Further the applicant has already submitted a chart giving the details of the amounts due to him in different heads along with the interest payable as per the orders of the Writ Court. The said amounts have still not been paid to the applicant nor the opposite parties have been able to show that the calculation made by the applicant is incorrect.

7. Put up this case tomorrow i.e. 6.8.2010 in the additional cause list. The Municipal Commissioner, Allahabad Municipal Corporation shall remain present tomorrow along with the records relating to the calculations and the payments made to the applicant pursuant to the judgment of the Writ Court.

8. Copy of this order may be provided to Sri S.D. Kautilya, learned Counsel appearing for the opposite parties on payment of usual charges today itself.