(2013) 07 AHC CK 0203

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 27509 of 1997

Ranjit Singh Singher APPELLANT

Vs

U.P.S.R.T.C. and Others RESPONDENT

Date of Decision : 24-07-2013

Acts Referred:

Citation : (2013) 9 ADJ 723

Hon'ble Judges : Arvind Kumar Tripathi, J

Bench : Single Bench

Advocate : Mohd. Jafar, B.P. Yadav and Z.K. Hasan, for the Appellant; R.A. Gaur and Rajeev Sharma, for the Respondent

Final Decision : Allowed

Judgement

Arvind Kumar Tripathi, J.—Learned counsel for the petitioner is permitted to implead the State of U.P. Through the Secretary (Transport) U.P. Lucknow as respondent No. 4. Learned counsel for the petitioner shall handover the copy of the petition to learned Standing Counsel for follow up action.

2. Heard learned counsel for the petition, learned Standing Counsel and perused the record.

3. This writ petition has been filed with the prayer to issue writ of mandamus directing the respondents to pay the pension and other retiral benefit to the petitioner with immediate effect together with interest of 16% on the delayed payment. Further prayer is to issue writ of mandamus directing the respondents not to insist for refund of the employer''s share of E.P. Fund and to adjust the same from the amount of arrears of pension.

4. Learned counsel for the petitioner submitted that initially the petitioner was appointed as conductor in the erstwhile U.P. Government Roadways against pensionable post w.e.f. 2.2.52. The services of the petitioner was confirmed as permanent conductor w.e.f. 1.4.1956. Before issuance of the Government Order dated 16.9.60 by which the revised terms and condition of services was

introduced. The petitioner was promoted to the post of clerk w.e.f. 1.12.1956 and continued to work till 15.11.1998. Thereafter he was promoted to the post of senior clerk w.e.f. 16.11.78 as accountant w.e.f. 1998. The petitioner retired after noon w.e.f. 31.8.1988 after completing the age of 58 years. The petitioner retired from the post of accountant and there was representation as well as recommendation of the authorities concerned to grant of pension to the petitioner who belonged to the erstwhile U.P. Government Roadways who were working on any permanent post on or before the creation of U.P.S.R.T.C. There were Government Orders that the pension would be provided to such employees if they were willing to refund the share of employer''s share provided pension and excess payment of gratuity. The representation of the petitioner was that share of E.P.F. be adjusted and for balance pension direction be issued for payment. However, when the pension was not paid to the petitioner then the present writ petition has been filed. The Assistant General Manager (F) sent a detailed letter to General Manager (Pension) on 18.9.1996 for grant of pension. Till date pension has not been paid to the petitioner instead of insisting the petitioner to deposit the employer''s share in E.P.F. and excess payment of gratuity might be adjusted from arrears of the pension, hence the direction be issued for payment of pension after adjustment of share of the petitioner in Employee Provident Fund and excess amount, if any of the gratuity.

5. According to the case of the respondents the amount withdrawn by the petitioner of EPF share of employer''s was not returned, hence the pension cannot be released. The matter has already been referred to the State Government and after approval and order received from the Government further action would be taken for payment of pension.

Considered the submissions of learned counsel for the parties.

6. There is no dispute that the petitioner was entitled for pension who was members of erstwhile U.P. Government Roadways. Subsequently the same was merged in U.P.S.R.T.C. The petitioner retired on the post of accountant on 31.8.1988. Till date pension has not been released. Now he is entitled for the arrears of pension also. In view of the facts and circumstances of the case the share of the employer regarding E.P.F. and gratuity, if paid in excess, can be adjusted from the arrears of the pension and after adjustment of the share of the E.P.F. and excess gratuity, arrears of any pension has to be released and regular pension has to be paid in future whenever, it falls due.

7. The respondents are directed to ensure the payment of the arrears of pension and month to month pension, expeditiously, after adjustment of the share of E.P.F. and gratuity if any paid in excess, preferably within a period of three months after furnishing certified copy of this order. The respondents to communicate the compliance of this order Registry of this Court to place the same on record. With the above observation and direction this petition is allowed. No order as to cost.