(2009) 07 SHI CK 0018

In the High Court Of Himachal Pradesh

Rattan Singh APPELLANT

Vs

H.P. State Forest Corporation and Others RESPONDENT

Date of Decision : 02-07-2009

Acts Referred:

Citation : (2010) 1 ShimLC 144

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—The petitioner was working as driver in the respondent-Corporation. He superannuated on 28.2.1994. The case of the petitioner is that his retiral benefits including Provident Fund, Group Insurance and Gratuity etc. have not been paid. The case of the respondent-Corporation is that the petitioner has been released a sum of Rs. 71175/- and 7408 towards Provident Fund, vide letter dated 23.11.1995 and a sum of Rs. 18,576/- has been released on 30.7.1994 towards gratuity. Their further case is that certain recoveries were to be effected from the petitioner as detailed in the reply.

2. The petitioner has retired on 28.2.1994. His retiral benefits were to be paid to him at the time of his retirement. A sum of Rs. 18,576/- has been released to him on 30.7.1994 without any interest. It is settled law that in case of delay in release of gratuity, a person is entitled to interest as per Rule 68 of Central Civil Services (Pension) Rules, 1972.

3. The petitioner has been paid Provident Fund only on 23.11.1995. The Assistant Commissioner has informed the Corporation that the case could not be settled earlier as his office has not received the information as required vide a letter dated 19.7.1994 from the respondent-Corporation regarding last A/c number of the petitioner. The respondent-Corporation has submitted the number to the Assistant Commissioner, Sub-Divisional Office, Shimla in the month of November 1995.

4. The petitioner was entitled to get his retiral dues including Provident Fund at the time of his retirement. The respondent-Corporation has wrongly withheld gratuity of the petitioner for about five months. The respondent-Corporation is bound to pay interest to the petitioner as per Rule 68 of Central Civil Services (Pension) Rules, 1972 read with decision No. 2 appended thereto. Similarly, the petitioner is also entitled to interest on the Provident Fund released on 23.11.1995 at the rate of 12% per annum for wrongfully withholding the amount of Provident Fund.

5. Their Lordships of the Hon''ble Supreme Court in R. Kapur Vs. Director of Inspection (Painting and Publication) Income Tax and Another, have granted interest at the rate of 18% per annum instead of 10%. Their Lordships have held as under:

11. The Tribunal having come to the conclusion that DCRG cannot be withheld merely because the claim for damages for unauthorised occupation is pending, should in our considered opinion, have granted interest at the rate of 18% since right to gratuity is not dependent upon the appellant vacating the official accommodation. Having regard to these circumstances, we feel that it is a fit case in which the award of 18% is warranted and it is so ordered. The DCRG due to the appellant will carry interest at the rate of 18% per annum from 1/6/1986 till the date of payment. Of course this shall be without prejudice to the right of the respondent to recover damages under Fundamental Rule 48-A. Thus, the Civil appeal is allowed. However, there shall be no order as to costs.

6. The Apex Court has allowed 12% interest on retiral benefits in R.R. Bhanot Vs. Union of India and others, In R.P. Kapur Vs. Union of India and Others, their Lordships of the Supreme Court have awarded interest at the rate of 12% per annum. Their Lordships have held as under:

32. The pension and family pension shall, therefore, be re-computed on the above basis and paid to the appellant w.e.f. 25-11-1992. The other retiral benefits will also be re-fixed on the above basis w.e.f. 25-11-1992 and paid to him. The computation of the family pension shall also be done on that basis. On account of the long delay and denial of pension and retiral benefits on a wrong interpretation of the Rules, we deem it fit to award 12% interest on all the arrears payable to him on the above basis in respect of pension and all benefits. Arrears have to be computed with effect from the date of retirement on 25-11-1992. The appeal is allowed as stated above but there will be no order as to costs.

7. Accordingly, the petition is allowed. The respondents are directed to pay the petitioner interest as prescribed under Rule 68 of Central Civil Services (Pension) Rules, 1972 and decision No. 2 appended thereto on the amount of gratuity and to pay interest at the rate of 12% per annum due to delayed payment of Provident Fund. The interest shall be paid to the petitioner within a period of four weeks from today. No costs.

