(2007) 03 DEL CK 0209

In the Delhi High Court

Case No : Writ Petition (C) No. 1627 of 2004

Rizwanul Haq APPELLANT

Vs

NCT of Delhi and Another RESPONDENT

Date of Decision : 02-03-2007

Acts Referred:

Citation : (2007) 138 DLT 738 : (2007) 94 DRJ 536

Hon'ble Judges : Rekha Sharma, J

Bench : Single Bench

Advocate : Rohit Sharma, for the Appellant; Sujata Kashyap, for Respondent No. 1, M.K. Aggarwal, Additional DEO in person and S.K. Luthra, for the Respondent

Final Decision : Disposed Off

Judgement

Rekha Sharma, J.—The petitioner - Rizwanul Haq - retired as Vice Principal from Fatehpuri Muslim Senior Secondary School on 30.6.1998. Prior to his retirement, an Office Memorandum dated 1.5.1987 was issued by the Ministry of Personnel, Public Grievances and Pension stating therein that the Fourth Central Pay Commission has recommended that all Contributory Provident Fund (CPF) beneficiaries in service on January 1, 1986 should be deemed to have come over to pension scheme on that date unless they had specifically opted out to continue under the CPF scheme. In view of this Memorandum, the petitioner came over to pension scheme. As a consequence of this, respondent No. 2 - Fatehpuri Muslim Senior Secondary School - was suppose to refund the Government''s contribution to CPF Scheme along with interest thereon. This was not done. When the petitioner retired, his retiral benefits were being held back on the ground that the Government''s contribution to the provident fund which was lying with respondent No. 2 had not been refunded. Faced with this situation, the petitioner made a deposit of Rs. 1,39,066/- which included the Government''s contribution, the interest thereon at the postal rate and over and above that further interest @ 12% per annum which was claimed in terms of a circular dated 26.1.1997. The said deposit was made on 24.8.1998. Having done so, the petitioner time and again approached respondent No. 1 to refund to him the amount which he was made to pay by way of interest @ 12% per annum in view of the circular dated 26.1.1997. The said amount according to the petitioner works out to Rs. 88632.95.

2. It is submitted by learned Counsel for the petitioner that it was the obligation of the school authorities to refund to respondent No. 1 the Government''s contribution towards the CPF Scheme along with interest thereon at the postal rate. Since the school failed to discharge its obligation and as the petitioner''s retiral benefits were being held-up because of lapse on the school''s part, it was left with no option but to deposit the amount of Rs. 1,39,066/- which, as already noticed above included interest @ 12% per annum amounting to Rs. 88632.95. The petitioner points out that the circular dated 26.1.1997 under which interest @ 12% per annum was charged from the petitioner was subsequently modified by another circular dated 15.12.1998 and again interest was charged at the postal rate which was much less than the rate of 12% per annum. By virtue of this writ petition, the petitioner is claiming refund of Rs. 88632.95 being the difference of interest between the postal rate and the rate of 12% per annum. According to the petitioner, there was no justification on the part of respondent No. 1 not to have refunded the said amount to him when the same was lying deposited with the treasury of the Government as far back since 24.8.1998. The petitioner has placed on record the treasury receipt as evidence of the fact that the amount was lying with respondent No. 1 since 24th August, 1998.

3. Learned Counsel for respondent No. 1 has not rebutted the submission that this amount was lying with the Government since 24.8.1998 nor has been able to justify why the amount in question has not been refunded to the petitioner. This, to say the least, is highhandedness on the part of respondent.

4. For what has been noticed above, I direct respondent No. 1 to refund the sum of Rs. 88632.95 to the petitioner within a month along with interest thereon at the rate of 6% per annum. The writ petition stands disposed of.

