
(2011) 12 AHC CK 0322

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 62458 of 2011

Sewa Ram Pathak Abhay and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 13-12-2011

Acts Referred:

Citation : (2012) 3 ADJ 234

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon''ble Sudhir Agarwal, J.—Heard Sri Krishna Ji Khare, learned counsel for the petitioners and Sri J.N. Maurya for the respondents 2 to 5. The only relief sought by the petitioners is that the respondents should get amount of Management's contribution deposited with interest from the petitioners and compute the services rendered by them prior to the institution concerned brought in grant-in-aid for the purpose of retiral benefit like pension etc.

2. The petitioners 1, 2 and 3 while working as Assistant Teacher or Headmaster as the case may be have retired on 30.6.2009, 30.6.2008 and 30.6.2009 respectively while the petitioners 4, 5 and 6 will retire in future.

3. The State Government issued a Government Order dated 26.7.2001 extending period of deposit of Management's contribution alongwith interest in Government Treasury upto 30.3.2002. On such deposit the period of service rendered in the institution prior to its brining on grant-in-aid would count for pensionary benefit.

4. It is said that management of the institution in which petitioners working did not deposit the said amount. The petitioners however are ready to deposit the said amount from their own but the same is not being permitted by the respondents. Attention is also drawn to this Court's order dated 6.9.2006 in Writ Petition No. 75746 of 2006 "Smt. Shanti Solanki v. State of U.P. and others",

whereby the cut of date provided in the Government order dated 26.7.2001 has already been quashed and this Court allowed deposit of the amount subsequently. The said decision has been followed later on also in several cases including Writ Petition No. 42467 of 2007 "Vidhya Ratan Maheshwari v. State of U.P. and others" decided on 11.5.2010 and Writ Petition No. 74896 of 2010 "Ram Babu Pachauri v. State of U.P. and another" decided on 23.12.2010.

5. On behalf of respondents a counter-affidavit has been filed, it is stated that the petitioners 1, 2 and 3 have already been paid their retiral benefit including General Provident Fund (G.P.F.). The petitioners 1 and 3 are also getting pension but petitioner 2 has not been granted pension benefit since he has not put 10 years required service from the date of grant-in-aid i.e. on 1.12.1998. It is further stated that from 1.4.2009 a new pension scheme has been made operative and, therefore, the earlier Government Order cannot be pressed into service.

6. A perusal of the Government Order dated 8.4.2009 makes it clear that it would be applicable to only those institutions which have been brought in grant-in-aid after 1.4.2005. It is not the case of respondents that the institution in question namely Rashtriya Vidya Mandir, Purva Madhyamik Vidyalaya, Khawajphool, Rama Bai Nagar (Kanpur Dehat) was taken on grant-in-aid in 2005 i.e. after 1.4.2005. On the contrary it is admitted in paragraph 7 of the counter-affidavit that the said institution was taking in grant-in-aid on 1.12.1998. In the circumstances, the Government Order dated 8.4.2009 has no application to the institution in question. A faint attempt was made by referring to U.P. Provisions of General Provident Fund U.P. Rules 1985 but nothing could be shown as to how that would be relevant to form a different opinion then what has already been expressed by this Court in several cases like Vidhya Ratan Maheshwari (supra) and Smt Shanti Solanki (supra) etc. In the facts and circumstances of the case and considering the aforesaid decisions as also the fact that petitioners are ready to pay the entire amount of Management's contribution alongwith interest, this writ petition is allowed in the same terms and conditions as contained in judgment dated 6.9.2006, Smt. Shanti Solanki (supra). If the petitioners deposit Management's contribution together with interest within a period of six weeks from today, the respondents shall proceed to extend benefit of Government Order dated 26.7.2001 to the petitioners as well. The aforesaid exercise will be completed within three months from the date of such deposit and production of a certified copy of this order. No order as to cost.