
(2012) 03 SHI CK 0247
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 11517 of 2008

Shri Brij Lal

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 22-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0247

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Advocate : Ranjan Sharma, for the Appellant; Rajesh Mandhotra, Dy. A.G., for the Respondent

Final Decision : Allowed

Judgement

Deepak Gupta, J.—The petitioner, by means of this petition, prays that the respondents be directed to release his GPF alongwith interest w.e.f. 1.5.2004 till realization. The undisputed facts are that the petitioner worked as Beldar with the respondents. According to the respondents, the petitioner applied for one day's casual leave on 5.7.2003 and thereafter remained willfully absent. Further case of the State is that at the time of joining service the petitioner had submitted a school leaving certificate showing his date of birth as 4.4.1944 but a complaint was received in the Department that the petitioner had submitted a false, forged and fabricated certificate. It is alleged that on inquiry being conducted it was proved that the petitioner had tampered with the date of birth and changed it from 4.4.1933 to 4.4.1944 and thereafter criminal proceedings were also lodged against the petitioner. It is on this ground that the Provident Fund has been withheld.

2. This Court is not going into the question whether the allegations made against the petitioner are correct or not. However, assuming for the sake of arguments that they are correct, the question that arises is whether the State can withheld the Provident Fund of an employee or not. The Apex Court in Y.P. Sarabhai Vs. Union Bank of India and Another, , has clearly laid down that even a person who

is dismissed from service is entitled to get his provident fund. Though, the gratuity and other retiral benefits can be denied to an employee if his services are terminated but provident fund cannot be withheld under any circumstances. In view of the above discussion, the writ petition is allowed and it is directed that the provident fund due and payable to the petitioner shall be paid to him on or before 30th June, 2012 alongwith interest @ 8% p.a. w.e.f. 15.4.2004. It is made clear that this Court has not expressed any opinion on the merits of the disciplinary proceedings or criminal case pending which shall be decided in accordance with law. No costs.