

(2004) 03 AHC CK 0189

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 45045 of 2003

Smt. Ganga Devi

APPELLANT

Vs

The Chairman/Executive Officer, Nagar Palika Parishad and
Others

RESPONDENT

Date of Decision : 23-03-2004

Acts Referred:

Citation : (2004) 5 AWC 4120

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : Indal Singh, for the Appellant; Awadesh Prasad and S.C., for the Respondent

Final Decision : Allowed

Judgement

Vineet Saran, J.—The petitioner was appointed as a Sweeper on Class IV post in the Nagar Palika Parishad Shikohabad, District Firozabad and was subsequently confirmed in service. On attaining the age of superannuation, the petitioner retired from service on 31.1.1998. After completing all the formalities, the papers relating to the payment of pension and other retirement benefits had been forwarded by Nagar Palika Parishad, Shikohabad, District Firozabad to Assistant Director, Local Fund Accounts Pariksha Vibhag, U.P. Vyavasayik Kendra, Agra, Respondent No. 2. On 16.12.2000, Respondent No. 2 accorded sanction for payment of Rs. 45,556/- plus pension of Rs. 796.25 per month with effect from 1.2.1998. Since the petitioner was not paid the said amount of retiral dues as well as pension, the petitioner has filed this writ petition with a prayer for a direction to the respondents to pay the pension and other retiral benefits as well as the arrears of salary and leave encashment in compliance of the directions of Respondent No. 2 dated 16.12.2000.

2. I have heard Sri Indal Singh, learned counsel appearing on behalf of the petitioner as well as Sri Awadesh Prasad, learned counsel appearing on behalf of respondent No. 1 and the learned Standing Counsel appearing on behalf of

respondent Nos. 2 to 5 and have perused the record.

3. The facts as stated in the writ petition have not been disputed by Respondent No. 1 in its counter affidavit. Thus the sanction and "approval for payment of retiral dues and pension to the petitioner by Respondent No. 2 vide its order dated 16.12.2000 stands confirmed. Despite the same, the Chairman/Executive Officer, Nagar Palika Parishad, Shikohabad, District Firozabad, Respondent No. 1, has not paid the retiral dues to the petitioner and the only ground taken in the counter affidavit is the lack of fund.

4. Since it is admitted by the respondent-authorities that the petitioner is entitled for payment of the retiral dues as has already been determined and also approved by Respondent No. 2, there is no reason for the Respondent-Nagar Palika Parishad for withholding the same. During the course of arguments, Sri Awadesh Prasad, learned counsel appearing on behalf of respondent No. 1, has stated that on 16.3.2004 certain payment of retiral dues amounting to about Rs. 48,000/- have been paid to the petitioner. Sri Indal Singh, learned counsel appearing on behalf of the petitioner, denies it as he has no instructions from his client regarding the same.

5. Having regard to the facts and circumstances of this case as narrated above, in my view, this writ petition deserves to be allowed as the petitioner has a right to the payment of retiral dues as well as pension. It is well settled that post retiral benefits are not given by way of grace or bounty at the discretion of the employer. It is a right which the employee has earned by serving the organization till the age of his superannuation so that he can live with dignity after his retirement and is not left at the mercy of others. It is an obligation which the employer has to fulfil and is required to do so under the law. It is a statutory right of the employee which is to be paid to him immediately on his retirement. It is thus directed that the Chairman/Executive Officer, Nagar Palika Parishad, Shikohabad, District Firozabad, Respondent No. 1, shall pay to the petitioner the entire retiral dues as well as the arrears of pension within a period of three months from today along with 9 per cent interest. It is further directed that the current pension from May 2004 shall be paid to the petitioner month by month by the 7th of the succeeding month and the arrears shall be paid with interest within three months from today. In case if any payment has already been made to the petitioner by Respondent No. 1 during the pendency of this writ petition, the same shall be adjusted.

6. Accordingly, this writ petition stands allowed with costs, which is assessed at Rs. 5000/-, which shall also be paid to the petitioner by Respondent No. 1.