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(2009) 11 KAR CK 0089

In the Karnataka High Court

Case No : Writ Petition No. 31154 of 2009

Smt. Susheelamma APPELLANT

Vs

The Accountant General A and E, Pension Division and The Inspector General of Registration and Commissioner of Stamps RESPONDENT

Date of Decision : 23-11-2009

Acts Referred:
Constitution of India, 1950 — Article 19 (1) (f), 31 (1)

Citation : (2009) 5 KCCR 3861

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Gururaj Kulkarni, for the Appellant; M.C. Nagashree, GA for R1 and R2, for the Respondent

Final Decision : Allowed

Judgement

Ram Mohan Reddy, J.—The petitioner''s husband attained the age of superannuation and retired on 30.4.1997, as a District Registration Officer in the department of Registration and Stamps, having served the State for 33 years. The petitioner''s husband was entitled to retirement benefits, including Death-cum-Retirement Gratuity, immediately on retirement. It is stated that petitioner''s husband died on 5.4.1998 without receiving the retirement pension. The petitioner, widow of the State servant, having made all efforts to secure pensionary benefits, received Rs. 2,04,435/- on 4.6.2009, after 12 years and 2 months of retirement. Hence, this petition filed on 23.10.2009 for direction to the respondents to pay interest at the rate of 18% p.a. on the delayed payment of Rs. 2,04,435/- towards Death-cum-Retirement Gratuity.

2. The petition is opposed by filing statement of objections of the respondents, inter alia not disputing the factum of retirement of the State servant, but advancing a plea that several letters were addressed to the District Registrar Offices at Bhadravathi, Shimoga and Basavanagudi, calling for certain particulars

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of the retired official. On securing the same, it is said the payment was released to the petitioner on 26.2.2009. The delay in securing the No Objection Certificate, based on audit and inspection of the accounts of the District Registrar Office, where the official had served the State, was the cause for the undue delay in payment of the Death-cum-Retirement Gratuity amount.

3. Pension is not a bounty payable at the sweet will and pleasure of the Government and that, on the other hand, the right to pension is a valuable right vesting in the Government servant. The right of the petitioner to receive pension is property under Article 31(1) of the Constitution of India and the State, has no power to either withhold or cause delay in the payment. Similarly, the said claim is also property under Article 19(1)(f) and it is not saved by Sub-article (5) of Article 19. Therefore, it follows that the order denying petitioner''s right to receive pension and it is the fundamental right of the petitioner under Article 19(1)(f) and 31 (1) of the Constitution. This is the law laid down by five judges of the Apex Court in Deokinandan Prasad Vs. The State of Bihar and Others, .

4. In a similar circumstance, though not identical, a case where there was a delay of four years in payment of the pensionary benefits to an employee of the State, the Apex Court in the case of AIR 2000 SC 3513a directed payment of interest at the rate of 18% p.a. from the date of retirement till payment.

5. The lethargy and inaction on the part of the officials of the respondents in not securing the relevant No Objection Certificate from the offices where the retired official had performed his duty, well within reasonable time, cannot be heard to say that 12 years 2 months was reasonable time to effect payment of pension and the petitioner is disentitled to the interest on the said sum. That contention must stand repelled.

6. In the absence of acceptable cause for the inordinate delay in payment of the pensionary benefits, in the circumstances, the petitioner is entitled to interest of the rate of 18% p.a. simple, from 01.05.1997 upto 04.06.2009 on the pension amount.

7. In the result, the writ Petition is allowed. The respondents are directed to pay simple interest at the rate of 18% p.a. on Rs. 2,04,435/- from 01.05.1997 upto 04.06.2009, the date of payment.

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