

(2015) 04 AHC CK 0204

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 31663 of 2009

Suresh Chandra Pandey

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 21-04-2015

Acts Referred:

Citation : (2015) 5 ADJ 433 : (2015) 5 ALJ 470 : (2015) 3 AWC 3146 : (2015) LabIC 3841 : (2015) 3 UPLBEC 2463

Hon'ble Judges : Pradeep Kumar Singh Baghel, J

Bench : Single Bench

Advocate : R.K. Upadhyaya, for the Appellant; A.K. Yadav and Chandra Narayan Tripathi, Advocates for the Respondent

Final Decision : Allowed

Judgement

Pradeep Kumar Singh Baghel, J—The petitioner is a retired Headmaster of a Junior High School, which is run by the Basic Shiksha Parishad, Uttar Pradesh and the salary of the teachers of the said institution is paid from the State exchequer. The petitioner seeks a direction ordering the respondents to release the amount of interest on the delayed payment of his post retiral benefits.

2. The facts are the petitioner was initially appointed as an Assistant Teacher; later on he was promoted on the post of Headmaster; and, he retired reaching the age of superannuation on 30th June, 2006. The petitioner claims that the State has given him award of best teacher. After the retirement of the petitioner, his post retiral benefits have been paid to him on 11th June, 2008. The petitioner has averred in paragraph-13 of the writ petition that he received a bankers cheque for a sum of Rs. 2,68,537/- issued by the Allahabad Bank on 11th June, 2008.

3. The grievance of the petitioner is that admittedly, his post retiral benefits have been paid to him after lapse of a period of two years from the date of his retirement but no interest has been paid on the delayed payment. For payment

of interest on the delayed payment, the petitioner has made a representation dated 11th November, 2008, which has been received in the office of the second respondent, but no order has been passed thereon.

4. A counter-affidavit has been filed on behalf of the second and third respondents wherein it is clearly admitted that there was a delay in payment of post retiral benefits of the petitioner. Such admission has been made in paragraphs-14 and 19 of the counter-affidavit, which are extracted herein-below:

"14. That the contents of paragraph 3 of the writ petition are incorrect as stated hence denied and in reply thereto it is submitted that the petitioner has already been paid all the retiral dues, however the said payment has been made on account of the implementation of 6th Pay Commission Report as result thereof some delay has been caused which was neither intent full of deliberate. The all payments have been made to the petitioner including the arrears but some delay has been made due to paucity of the budget, therefore the petitioner is not entitled for any interest against the alleged amount stated by the petitioner.

19. That the contents of paragraphs 10, 11 & 12 of the writ petition are subject-matter of record which can be examined by this Hon"ble Court at the time of hearing of the writ petition. However it is submitted that since the petitioner has already been paid all the retiral dues but some delay has been caused due to implementation of the 6th Pay Commission Report and paucity of budget, therefore, the implication cited by the petitioner by means of the judgment is not applicable in the present case."

5. I have heard learned counsel for the petitioner and learned Standing Counsel.

6. Learned counsel for the petitioner has submitted that admittedly there is a delay in payment of post retiral benefits of the petitioner, therefore, the respondents are liable to pay interest. He has placed reliance on the judgments of this Court in Suresh Chandra Rai Vs. U.P. Power Corporation Ltd. and Others, (2009) 4 AWC 4202 : (2009) 123 FLR 536 , and Panna Lal v. State of U.P. and another, Writ-A No. 16146 of 2012, decided on 02nd April, 2012.

7. Learned Standing Counsel submits that after the implementation of the report of the VIth Pay Commission some delay has been caused in making payment but the payment has already been made to the petitioner.

8. I have considered the submissions of the learned counsel for the parties and perused the record.

9. Admittedly, the petitioner retired as a Headmaster on 30th June, 2006 and payment of his post retiral benefits were made on 11th June, 2008. The respondents have admitted in the counter-affidavit that there was delay in payment of post retiral benefits of the petitioner.

10. In Panna Lal (supra) this Court has observed as under:

"A Division Bench of this Court in the case of Wig Brothers (Builders and

Engineers) (P) Ltd. and Another Vs. Union of India (UOI) and Others, (2003) 6 AWC 5331 : (2003) 3 CompLJ 328 , has explained that payment of interest is a necessary corollary to the retention of amount. It is neither penal nor compensatory in nature. In view of the aforesaid, the right of the petitioner to claim interest on the delayed payment accrues and it has to be adjudicated by respondent No. 1 (The State of U.P. through its Secretary, Higher Education, Lucknow), at the first instance.

Accordingly the present writ petition is disposed of with liberty to the petitioner to make a representation ventilating all his grievances before respondent No. 1, within two weeks from today, alongwith a certified copy of this order. On such a representation being made the respondent No. 1 shall call for the records and shall pass a reasoned speaking order preferably within eight weeks after affording opportunity of hearing to respondent No. 2. The respondent No. 1 shall determine as to who is responsible for the delay. The interest shall be recovered from the person concerned immediately thereafter and paid to the petitioner."

11. The Supreme Court in the case of State of Kerala and Others Vs. M. Padmanabhan Nair, AIR 1985 SC 356 : (1985) LabIC 664 : (1985) 1 LLJ 530 : (1984) 2 SCALE 959 : (1985) 1 SCC 429 : (1985) 2 SCR 476 : (1985) 1 SLJ 106 : (1985) 17 UJ 764 , has laid down the law that in case of delay in payment of post retiral benefits, the employee shall be entitled for the interest on the delayed payment.

12. This Court way back in the year 1992 in the case of Mukti Nath Rai Vs. State of Uttar Pradesh and Others, (1992) 2 AWC 644 : (1992) 1 UPLBEC 674 , has issued a general mandamus in the following terms:

"10. I, therefore, direct that henceforth Rules 906 to 960 of the Civil Service Regulations be followed strictly by all concerned officials, and payment of pension must begin promptly on the retirement of the U.P. Government employee. This mandamus must be strictly complied with, and all those responsible for its violation, whether in the parent department of the retiring employee or in the Accountant General's office, shall be held accountable of this Court for such violation."

13. It is pertinent to mention that after the judgment of this Court in Mukti Nath Rai (supra), the State Government has framed the Uttar Pradesh Pension Cases (Submission, Disposal and Avoidance of Delay) Rules, 1995 (for short, the "Rules, 1995"), providing detailed procedure with regard to sanction of pension. As defined under Rule 2(b) and 2(k) of the said Rules, a specific Time-Schedule has been provided to be followed and complied with at each and every stage. In the said time-schedule, the description of work, time within which work is to be done and the person responsible for the work have specifically been mentioned in Columns-2, 3 and 4 respectively thereof. Under Rule-4 of the Rules, 1995, procedure for implementation of the time schedule and allied matters has been provided. It is apposite to reproduce Rule-4 of the Rules, 1995, as under:

"4. Procedure for implementation of the time schedule and allied matters.--(1) A delay may be ascertained by the Nodal Officer/Chief Nodal Officer:

(a) from the complaint of the Pensioner/Pensioner's Organization;

(b) from the follow up of the disposal of pension cases.

(2) Whenever any delay comes to notice of the Nodal Officer/Chief Nodal Officer, he shall require the Head of the Department/the Head of the Office to furnish all relevant informations in respect of the reasons for delay and, after such enquiry as he considers proper, find out the person responsible for the delay and send a proposal to the disciplinary authority concerned for disciplinary proceeding against him. The Nodal Officer/Chief Nodal Officer shall follow up the matter till the completion of the disciplinary proceeding and maintain record of such proceeding. The Nodal Officer shall intimate to the Chief Nodal Officer in respect of the result of such disciplinary proceeding.

(3) A person, who fails to furnish required information to the Nodal Officer/Chief Nodal Officer in respect of retirement of an employee or in respect of any other matter relating thereto, or who is responsible for delay, shall be guilty of misconduct and be punishable under the punishment rules applicable to him.

(4) Duly completed pension papers alongwith all relevant documents shall be sent to the pension sanctioning authority within the time schedule specified in the schedule in respect thereof.

(5) The Chief Nodal Officer/Nodal Officer and the pension sanctioning authority shall ensure arrangement for disposal of pension matters within the time schedule.

(6) The pension sanctioning authority shall hold or cause to be held regular monthly meeting of officers/officials, who deal such matters, and shall take all appropriate steps for examination and disposal of such matters.

(7) The Principal Secretary or Secretary, as the case may be, to the Government in the Department concerned shall supervise the work of the Head of the Department/Head of the Office in relation to all pension matters within the time schedule."

14. In view of the above, I am of the considered opinion that the petitioner is entitled for interest on the delayed payment of his post retiral benefits @ 6% per annum from the date of his retirement till the date of actual payment. The said amount shall be paid to the petitioner by the second respondent within four months from the date of communication of a certified copy of this order. It is open to the State Government that after payment of the amount of interest to the petitioner, as directed above, it can hold an enquiry to find out the person who is responsible for the delay and deduct the amount of interest from the salary/post retiral benefits/pension of the officer/official held responsible for the delay.

15. The writ petition is, accordingly, allowed. No order as to costs.