

**(2004) 04 AHC CK 0114**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 32899 of 2003

Tirath Raj Upadhyay

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

---

**Date of Decision :** 09-04-2004

**Acts Referred:**

**Citation :** (2004) 3 AWC 2827 : (2004) 2 UPLBEC 1652

**Hon'ble Judges :** Sunil Ambwani, J

**Bench :** Single Bench

**Advocate :** K.K. Mishra, for the Appellant;

**Final Decision :** Disposed Of

---

## **Judgement**

Sunil Ambwani, J.—Heard Sri K.K. Misra for petitioner and learned Standing Counsel for respondent.

2. In pursuance of order dated 27th January, 2004 Sri Kripal, Deputy Director of Education (Madhyamik), Vth Region, Varansi and Sri Brij Mohan Maurya, District Inspector of Schools, Jaunpur appeared in person on 27th February, 2004 and thereafter on 12th March, 2004.

3. The petitioner retired working as Assistant Teacher in Sri Bashnav Bhagawan Deshraj Surya Adarsh Sanskrit Mahavidyalaya, Udai Bhanpur, Kulaha, Jaunpur on 30th June, 1996. After his retirement, his service record was sent to the office of Joint Director of Education, Vth Region, Varansi, for payment of pension. After about four years, the pension was sanctioned on 4th August, 2000 by pension payment Order No. 8079-82. The total outstanding pension dues were calculated Rs. 1,74,401.55. A note appended to the order provided that the sanctioned amount of pension upto December, 1999 shall be paid through the Officer of District Inspector of Schools and that after 1st January, 2000 the amount shall be made from the treasury. The petitioner was paid pension w.e.f. 1st January, 2000. An amount of Rs. 1,75,401.55 towards arrears of pension, gratuity, and the amount of commutation of pension from 1st January, 1996 to 31st

December, 1999 was not paid to the petitioner. The petitioner has prayed for releasing the entire arrears of pension of Rs. 1,74,401.55 with compound interest @ 18% since 1st July, 1996.

4. The respondents were granted one month's time on 1st August, 2003. After three adjournments, the Court by its order dated 27th January, 2004 directed the Deputy Director of Education (Madhyamik), Vth Region, Varansi and the District Inspector of Schools, Jaunpur to be personally present in Court on 27th February, 2004 to explain the position as to why the amount has not been paid.

5. On 27th February, 2004, Sri Kripal, Deputy Director of Education and Sri Brij Bhushan Muarya, District Inspector of Schools, Jaunpur appeared and filed a counter affidavit and requested for exemption from personal appearance. In the counter affidavit, the date of retirement and entitlement to pension and arrears are not denied. It is stated in Para-7 of the affidavit of Sri Brij Bhushan Maurya, District Inspector of Schools, Jaunpur that by order dated 8th September, 1999 Deputy director of Education asked him to disburse the amount of arrears of pension prior to 31st December, 1999 through the treasury. The Senior Treasury Officer, Jaunpur by his letter dated 24th April, 2003 sought clarification from Secretary, Finance (Expenditure Control), Anubhag-2, Government of U.P., Lucknow to clarify whether the pension of the retired teachers of Sanskrit schools is to be paid from Government grants prior to 1st January, 2000 through the treasury or through the school. He referred to a letter of Deputy Director of Education dated 11th September, 2002 by which the arrears prior to 31st December, 1999 were required to be paid through treasury. On 25th February, 2004 the Deputy Director sent a letter to the Treasury Officer, Jaunpur by which he gave sanction for payment of Rs. 1,20,912.00 towards arrears of pension from July, 1996 to December, 1999, to be paid by District Inspector of Schools, in pursuance of his demand letter dated 25th February, 2004.

6. The Court was not satisfied with the explanation and thus both the officers were required to clarify the matter of delay of filing of supplementary affidavit and to appear again before the Court on 12th March, 2004. A supplementary counter affidavit of Sri Brij Bhushan Maurya, District Inspector of Schools, Jaunpur has been filed, explaining that by Government Order dated 8th September, 1999 the payment of pension of teachers and employees of Sanskrit schools were required to be paid through the Government treasury and for this purpose the teachers and employees will require to open an account in the Bank. Para-2 of the Government Order dated 8th September, 1999 made it absolutely clear that the present pensioners shall be made payment upto 31st December, 1999 by the present payment authority and that after 1st January, 2000 these pensioners shall be paid through the Government treasury. The Deputy Director of Education (Madhyamik), Vth Region, Varansi by his letter dated 29th August, 2001 raised the demand for grant of arrears of pension for 13 teachers of the Sanskrit schools including the petitioner at Item No. 8. By subsequent letter dated 20th April, 2002 Annexure-3 to the supplementary affidavit, the Deputy Director of

Education requested for release of grant for a period upto December, 1999 and to clarify whether this payment will be made through the department or through the treasury. The Deputy Director of Education thereafter by his letter dated 25th October, 2002 sent a letter to the Treasury Officer, Varansi, informed him that according to Government Order dated 8th September, 1999 (Para-2) the department has been restrained from making payments of arrears of pension and that accordingly the Deputy Director he is not entitled to issue authority letter for payment of arrears and that such payment had to be released only by the Treasury Officer.

7. On receipt of the aforesaid letter dated 25th October, 2002 the Treasury Officer reminded the Deputy Director that in Para-2 of the Government Order dated 8th September, 1999 the Treasury has only been given the authority for payment of the pension and that the Deputy Director is the authority to sanction the pension, modified pension and arrears of pension and that the required authority letter is still awaited. The Deputy Director once again by his letter dated 1st August, 2002 directed the District Inspector of Schools, Jaunpur that the payment under the Government Order dated 8th September, 1999 (Para-2) has to be made through the Treasury and that the payment may be made at his level.

8. It is at this stage that the Treasury Officer, Jaunpur requested the Secretary, Finance (Expenditure and Control), Anubhag-2, Lucknow to clarify as to whether the arrears are to be paid by the Treasury or by the Department.

9. After the Court intervened in the matter, the District Inspector of Schools by his letter dated 25th February, 2004 informed the Deputy Director that the Treasury has not made the payment to the petitioner so far on which a writ petition has been filed and that in compliance with the orders an assessment has been made and the assessment letter for arrears of pension of Rs. 1,20,912/- and commutation of pension of Rs. 53,485.55 is being sent again for sanction. After receiving this letter and taking notices of filing of the writ petition, the Deputy Director of Education (Madhyamik), Vth Region, Varansi by his letter dated 25th February, 2004 sanctioned the amount. The arrears of Rs. 1,74,401.55 were ultimately paid to the petitioner by account pay cheque dated 19th March, 2004.

10. The payment was delayed from July, 1996 to 4th August, 2000 for a period of four years. There was a clear direction in the Government Order dated 8th September, 1999 in Para-2 that the pension shall be paid by the existing payment authority upto 31st December, 1999 and after 1st January, 2000 the pension shall be paid through the Government Treasury. It was further made clear in the same paragraph that the pension payment orders in original shall be made available to the treasury and that after 31st December, 1999 the nominated officer shall not disburse the pension. In respect of pending pension matters also the payment shall be made through the treasury. This letter made it absolutely clear that for all the payments upto 31st December, 1999, the

competent authority to sanction the payments shall be authority existing upto that date and that the payment shall be made through the treasury. It is apparent that the Deputy Director of Education (Madhyamik), Vth Region, Varansi, deliberately confused the issue and instead of sanctioning the amount for payment through the treasury delayed the matter for a period of four years. His correspondence beginning from 29th August, 2001 upto date of sanction shows total lack of application of mind. The Court has every reason to believe that he had oblique purpose to achieve by delaying the sanction.

11. It has come to the notice to the Court that the pensions are made to run from pillar to post for years together, to receive their bonafide dues. This is one such case where, taking a frivolous plea of interpretation of Government Order dated 8th September, 1999 the Deputy Director of Education delayed the payment of Rs. 1,74,401.55 for a period of four years.

12. The Court has not been taken into the reasons as to why the sanction of pension was delayed from July, 1996 to August, 2000 but thereafter the delay from August, 2000 to March, 2004 was attributable only to the office of Deputy Director of Education (Madhyamik), Vth Region, Varansi.

13. Having regard to the facts and circumstances of the case, the petitioner is entitled for payment of interest over the amount of Rs. 1,74,401.55 at the then prevailing bank rate of 9% over fixed deposits. The Court finds that Sri Kripal, Deputy Director of Education (Madhyamik), Vth Region, Varansi is to be held responsible for this delay. He came to occupy the post on 25th January, 2003. The petitioner, therefore, shall be entitled payment of interest at the rate of 9% from the State Government with effect from the date the amount was payable. The interest shall be sanctioned by the State Government and paid to the petitioner within a period of four months from the date of production of a certified copy of this order before the Secretary, Finance, Government of U.P. The Secretary, Finance, Government of U.P. shall recover this amount from the salary of the Deputy Director of Education (Madhyamik), Vth Region, Varansi holding the office namely Sri Devendra Singh Pangty from August, 2000 to January, 2003 and from Sri Kripal from 25th January, 2003 to 19th March, 2004.

14. The writ petition is disposed of with the aforesaid directions.