

(2011) 07 KL CK 0071

In the High Court Of Kerala

Case No : Writ Petition (C) No. 25883 of 2010

Union of India and Others

APPELLANT

Vs

P. Aboobacker and Another

RESPONDENT

Date of Decision : 29-07-2011

Acts Referred:

Citation : (2011) 4 KLJ 60 : (2011) 4 KLT 176

Hon'ble Judges : P.S. Gopinathan, J;C.N. Ramachandran Nair, J

Bench : Division Bench

Advocate : P.A. Aziz SC, for the Appellant; B.V. Joy Sanker, for the Respondent

Final Decision : Dismissed

Judgement

P.S. Gopinathan, J.—By the impugned order dated 19.2.2009 in O.A. No. 196/2008 the Central Administrative Tribunal, Ernakulam Bench, directed the petitioners to pay gratuity and pension to the first respondent with interest at the rate of 9% per annum from the date of superannuation i.e. 31.7.2004 till date of payment. The petitioners now did not dispute the liability to pay gratuity and pension. Only the liability to pay interest is disputed with a pleading that Pension Rules does not permit payment of interest on belated pension and gratuity. True, there is no Rule. Reason is obvious. Rule makers didn't anticipate any such delay in payment of pension and gratuity. In other way no rule permit delayed payment of pension or gratuity. It is not in dispute that pension or gratuity is not a grace by the employer, but a right of the retiring employee. Every person retiring from service has the right to get his pension and gratuity determined and must be payable by the retirement. Delaying pension and gratuity is against the purview of the Rules. It is the duty of the appointing and controlling authorities to see that the pension and gratuity of every retiring personnel is sanctioned and made payable by retirement. If not, the consequence would be disastrous. Survival of the pensioner itself would become a challenge. Not only he had to run from pillar to post but also to fight litigation. The delay in this case is more than seven years. Now only the petitioners had to concede. The agony and hardship that the

1st respondent suffered is irreparable. In fact, the 1st respondent is entitled to get penal interest But the Tribunal had awarded only at very moderate rate. If at all the Tribunal erred, it is only towards leniency in favour of the petitioners. We find no good reason for delaying the gratuity and pension to the first respondent. In the above circumstances, the Tribunal below was justified in granting interest at a reasonable rate. There is no merit in the petition. Accordingly it is dismissed.

We further direct that the arrears shall be paid within six weeks.

The interest paid shall be realized from the erring officials after fixing the liability.