(2000) 01 MP CK 0047

In the Madhya Pradesh High Court

Case No : L.P.A. No. 14 of 1999

Union of India (UOI) APPELLANT

Vs

Shanti Devi and Others RESPONDENT

Date of Decision : 10-01-2000

Acts Referred:

Citation : (2000) 1 LLJ 1482 : (2000) 1 MPHT 511 : (2000) 1 MPLJ 399

Hon'ble Judges : S.P. Shrivastava, J;N.G. Karamdelkar, J

Bench : Division Bench

Advocate : Madhukar Rao, for the Appellant;

Final Decision : Dismissed

Judgement

Heard learned counsel for the appellant. Perused the record.

The solitary ground urged and pressed in support of this appeal is that the learned Single Judge while allowing the writ petition and holding that the petitioners were entitled to the family pension had erred in awarding the interest at the rate of 12% per annum for which there was no provision under the Employees'' Family Pension Scheme, 1971.

Learned counsel has urged that in the absence of any statutory provision casting liability on the appellant for the payment of interest, no direction should have been issued saddling the appellant with the liability in regard to the payment of interest on the unpaid amount of the family pension.

We have given our anxious consideration to the above submission.

The provision contained in paragraph 28 of the Employees Family Pension Scheme, 1971 stipulates that in the case of a member who being a member of the Family Pension Fund at the age of 25 years or less dies during the period of reckonable service before attaining the age of 60 years, family pension shall be paid at the rates specified in the Table given in that paragraph subject to the condition that he has been a member of the Family Pension Fund for a period of not less than 2 years.

Paragraph 30 of the above Scheme stipulates that family pension shall become payable from the beginning of the month immediately following the month in which a member of the Family Pension Fund dies.

The provisions contained in the Employees Family Pension Scheme, 1971 as has been noticed hereinabove cast a statutory liability in regard to the payment of the family pension from the beginning of the month immediately following the month in which a member of the Family Pension Fund dies.

In the present case the succession certificate which has been issued in favour of the petitioners indicates that the death of the employee took place on April 29, 1992. The learned single Judge has found that the date of death has to be presumed as April 29, 1992. The direction in regard to the payment of interest only provides a just compensation for the retention of the money by the appellant which ought to have been disbursed in accordance with the statutory provisions to the person entitled thereto in accordance with the provisions of the Scheme.

What is just and fair in the circumstances of each case cannot be laid down with any precision. Compensation is paid to indemnify a person and it should normally be an equivalent or substitute of equal values. Payment of interest has to be taken to be within the ambit of the expression ''just''. Non-payment of the amount of family pension after it falls due is unjust and unfair.

The learned Single Judge had only directed that the unpaid amount of family pension shall carry interest at the rate of 12% per annum till its payment. The rate of interest is not excessive. The fact that the amount which ought to have been disbursed was continued to be utilised by the appellant is not disputed.

Taking into consideration the circumstances indicated hereinabove no justifiable ground has been made out for any interference in the impugned direction in regard to the payment of interest.

The appeal is devoid of any merit and is accordingly dismissed.

