
(2010) 04 AHC CK 0075
In the Allahabad High Court

U.P. State Road Transport Corporation and Others	APPELLANT
Vs	
Mohd. Rais Khan	RESPONDENT

Date of Decision : 23-04-2010

Acts Referred:

Citation : (2010) 3 AWC 3051 : (2010) 126 FLR 1 : (2010) 4 LLJ 279

Hon'ble Judges : R.K. Agrawal, J; Jayashree Tiwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.K. Agrawal and Jayashree Tiwari, JJ.—The present special appeal has been filed against the judgment and order dated 4.4.2007 passed by the learned single Judge wherein, while allowing the writ petition preferred by the contesting respondent, a direction was issued to the present appellants to pay 12% simple interest to the respondent on the delayed payment of gratuity from a date of one month after his retirement till the amounts were actually paid. Interest would be payable on each of the three instalments of gratuity paid.

2. We have heard Sri Samir Sharma, learned Counsel for the appellant and Sri Gulrej Khan appearing for the respondents and have perused the impugned judgment and order dated 4.4.2007 passed by the learned single Judge giving rise to the present appeal as also the documents filed alongwith the memo of appeal.

3. Sri Samir Sharma, learned Counsel submitted that the claim of interest is hit by the principles of constructive res judicata as in Writ Petition No. 55594 of 2000, the contesting respondents had not claimed payment of interest which should have been claimed in the earlier writ petition. We find that even though the contesting respondents had not claimed payment of interest in the year 2000 in the writ petition filed in the year 2000 but, this Court had not adjudicated the claim regarding payment of gratuity relating to the contesting respondent. Moreover, it is not denied that the contesting respondent retired on 31.1.1999

and the amount of gratuity was not paid immediately in accordance with the scheme of Payment of Gratuity Act, 1972 thus, forcing the contesting respondent to approach this Court on a number of occasions to get the retiral dues.

4. That being the position, the award of interest @ 12% on the amount of gratuity cannot be said to be illegal. The order passed by the learned single Judge does not suffer from any legal infirmity. The amount of interest, if not paid, shall be paid within one month from the date on which a certified copy of this order is presented before the authority concerned.

5. The appeal fails and is dismissed.