

(2010) 08 AHC CK 0156
In the Allahabad High Court

U.P.S.R.T.C.

APPELLANT

Vs

Shiv Prasad

RESPONDENT

Date of Decision : 04-08-2010

Acts Referred:

Citation : (2010) 08 AHC CK 0156

Hon'ble Judges : R.K. Agrawal, J;Abhinava Upadhya, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.K. Agrawal, J.—We have heard learned Counsel for the parties.

2. The delay in filing the present appeal has satisfactorily been explained in the affidavit filed in support of the delay condonation application.

3. The application is accordingly allowed and the delay in filing the appeal is hereby condoned. Now the appeal shall be treated to have been filed within the period of limitation.

4. This appeal, under the Rules of the Court, is preferred against the judgment dated 3.12.2003 of the Hon"ble Single Judge disposing the petitioner-respondent Civil Misc. Writ Petition No. 53161 of 2003 with the direction to pay the entire arrears of gratuity, leave encashment and other retiral dues within three months with interest at the rate of 10% per annum on the delayed payment. In respect of arrears on account of revision in the pay-scale as per recommendation of 5th Pay Commission, the appellant was directed to take up the matter with the State Government, who shall decide the same within one month and thereafter payment is to be made expeditiously.

5. We have heard Shri Samir Sharma, learned Counsel for the respondents-appellants and learned Counsel for the petitioner-respondent and perused the record.

6. It appears that the petitioner-respondent retired from service on 31.12.2002.

However, the amount of gratuity, leave encashment and other retiral dues were not paid. Therefore, they filed the aforesaid writ petition. The appellants appeared in the writ petition and also filed counter affidavit. The appellants did not dispute so far as the dues of retiral benefits were concerned. The only plea for not making the payment was that the Corporation is running into loss which is almost Rs. Five Hundred Crores and thus, it is not possible to pay their retiral dues. The Hon''ble Single Judge, therefore, in view of the judgment in Civil Misc. Writ Petition No. 3731 of 2001 Ram Dularey v. Managing Director, U.P.S.R.T.C. Lucknow and Ors. decided on 29.11.2002 directed for the payment of arrears towards retiral benefits with interest at the rate of 10% per annum.

7. We have been informed by the learned Counsel for the respondent that during the pendency of this appeal entire amount towards retiral benefit has been paid, and therefore, the appeal has virtually lost its efficacy.

8. It is well settled legal position that the pension or the post retiral benefits are not charity or bounty to be distributed by the employer to its employees but it is a right of the employee, which flows from service rendered by him, and should be paid immediately after retirement and if any delay is caused the employer is liable to pay the interest on the late payment. We, therefore, do not find any fault in the judgment of the Hon''ble Single Judge.

9. The appeal, being without merit, is dismissed.