

(2017) 03 GUJ CK 0037
In the Gujarat High Court
Case No : 3687 of 2008

VIDYABEN ISHWARLAL PATEL

APPELLANT

Vs

STATE OF GUJARAT & ORS.

RESPONDENT

Date of Decision : 07-03-2017

Acts Referred:

Citation : (2017) 03 GUJ CK 0037

Hon'ble Judges : Mohinder Pal

Bench : Single Bench

Advocate : NIRAV C THAKKAR, ?ANTANI,?KIRAN N CHOPARA

Final Decision : Disposed

Judgement

1. The petitioner, by way of this petition, has challenged the inaction on part of the respondents in not

paying the retirement benefits including her pension, gratuity which were admissible to her despite the fact that she has retired from service in the year 1994.

2. Brief facts of this case are that, petitioner was working with respondent No.3 as Assistant Teacher and retired on 31.10.1994. Before retirement, petitioner made representation to the respondents on 4.10.1994 to fix her pension so that payment of the same could not be delayed. It is the case of the petitioner that despite this representation and subsequent reminders, her pay could not be fixed. The amount of Rs.2336.91 being employee's contribution was wrongly credited in "K" deposit instead of in Budget head "0071" for pension. It is submitted that such mistake was not on account of the petitioner. However, it was because of fault on part of the respondents and therefore, the pension of the petitioner has been delayed. Petitioner, through representation dated 28.12.1994 to respondent No.3, has claimed retirement dues along with 18% interest on the delayed payment.

3. The contentions raised in this petition have been denied by the respondents by way of filing detailed reply, wherein, it has been stated that delay has been caused on account of fault on part of the petitioner and not on account of the respondents. It is further stated that petitioner has claimed leave encasement for 240 days when she was having leave of 150 days in her account and as a result thereof, she has been paid leave encasement of Rs.23,325/-.

4. Learned counsel for the petitioner has submitted that despite the petitioner having retired from service in 1994, respondents could not complete the papers of the petitioner though they were required to do the same 2 years prior to the date of retirement. It has been argued that under these circumstances, petitioner was entitled to all retiral benefits along with interest as claimed by the petitioner.

5. On the other hand, learned counsel representing the State has denied the contentions raised by the petitioner in this petition.

6. This Court has considered the submissions of both the sides. It will be relevant to note that because of the interim order passed by this Court, the eligible retiral benefits claimed by the petitioner has been paid to her. This matter came up for hearing on 5.6.2015 and this Court passed the following order.

"Pursis of the Government is taken on record, whereby it has been stated that the grievance of the petitioner is already satisfied. However, Mr. Joshi, learned advocate for Mr. Thakkar, learned advocate for the petitioner states that he has no instruction from his client.

In that view of the matter, office shall list this matter before the regular Court on 15.06.2015 immediately after admission matters".

7. Learned counsel for the petitioner has submitted that petitioner being bedridden and it was not possible for him

to examine, whether the entire retiral benefits has been paid to the petitioner. In absence of any information, this Court has to rely upon the affidavit by way of reply filed by respondent No.3. In this reply, it has been stated that petitioner was entitled to leave encasement of 150 days and sum of Rs.23,325/- has been paid to her in the year 1995. Regarding LTC, the amount of Rs.9136/- has been paid on 6.2.1995. Regarding GPF, an amount of Rs.2,38,552/- has been paid on 25.5.1995. According to respondents, as per existing rules and regulations, petitioner has not credited the amount of CPF with interest in the Government Treasury in spite of they written letter to the petitioner in this regard. Petitioner herself has produced a letter date 9.1.1995 available at Annexure-F to the petition which clearly shows that petitioner was herself responsible for delaying the case and filing the petition before this Court. According to the respondents, they have followed the required procedure for pension in case of the petitioner. However, delay, if any, has been caused due to own fault of the petitioner.

8. As claimed by the respondents and apparent from the order dated 5.6.2015, most of the reliefs claimed by the petitioner has been granted to her. There will be no use in further elaborating the arguments raised by counsel for the petitioner. This is particularly so, when he was given an opportunity to take further instructions in the matter vide order dated 5.6.2015 and despite almost two years, he has failed to find out whether the petitioner has been paid entire benefits.

9. In view of the above, this petition is disposed of having rendered infructuous. However, if petitioner is still aggrieved for non payment of retiral benefits and other benefits, she can prefer other petition with the permission of this Court. Rule is discharged.