
(2010) 10 SHI CK 0328
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 5655 of 2008

V.P. Puri

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 22-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0328

Hon'ble Judges : Kurian Joseph, C.J;V.K. Sharma, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition has been filed with the following prayer:

That the respondents may please be directed to make the payment of the retirement gratuity amounting to Rs. 1,38,000/- as aforesaid in para 6(d) with interest @ 18; per annum from the date of its becoming due i.e. 1.7.1996 till final payment of the same as the delay caused in making timely payment is deliberate which is totally unjustified and unfair by which unlawful act the respondents have exposed the applicant to an acute financial stringency after his retirement from service, besides causing mental agony and harassment etc.

2. In reply, in para 6 (a) and (b), it is stated as follows:

All the contents of these paras of the application are incorrect and are denied. The instructions contained in Government letter attached vide Annexure "A" are not applicable to retirees of private institutions or government aided institutions and are only applicable to government retirees. Therefore, dearness allowance is not to be treated as dearness pay and is not to be added in the basic pay for the purposes of retirement gratuity. Therefore, the gratuity has rightly been calculated vide Annexure "C" attached with the application and the replying respondent is government aided one and receives 95% aid. Hence, an amount of Rs. 75,240/-(Rupees Seventy Five thousand two hundred & forty only) is to be paid by Government to the applicant and an amount of Rs. 3960/-(Rupees three thousand nine hundred & sixty only) by respondent college. The applicant is not

entitled for an amount of Rs. 1,38,000/- (rupees one lac and thirty eight thousand only) as stated in the application. The State of H.P. had earlier also paid retirement gratuity to a peon of the replying college Shri Onkar Chand as is clear from letter attached herewith as Annexure R-1. Another peon Shri Mohan Lal of the replying college was also paid gratuity by the State Government as is clear from Annexure R-2. The replying respondent had calculated the retirement gratuity and sent letter to Director Education as per Annexure R-3 dated 6.7.1996. The replying respondent even wrote letters attached herewith as Annexures R-2, R-3 & R-4 for release of 95% gratuity to enable the replying respondent to pay to the applicant's his due. There is no delay or inaction on the part of replying respondent. The applicant is not entitled to 18% interest. However, the applicant is required to prove the allegations made in these paras of the application.

3. In case the petitioner has still any dispute with regard to the factual position, as stated above, it will be open for him to approach the first respondent in which case the matter will be duly considered by the first respondent and appropriate action will be taken with notice to the petitioner within four months on receipt of the representation from the petitioner.

4. The writ petition stands disposed of, so also the pending application(s), if any.