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Balachandra Joshi vs the Zonal Manager

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Court : Karnataka Orders

Decided On : Feb-02-2024

Judge : N.S.Sanjay Gowda

Appeal No. : WP/110607/2017

Appellant : Balachandra Joshi

Respondent : The Zonal Manager

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH DATED THIS THE 2ND DAY OF FEBRUARY, 2024 BEFORE THE HON'BLE MR JUSTICE N.S.SANJAY GOWDA WRIT PETITION NO. 110607 OF 2017 (L-RES) BETWEEN: BALACHANDRA JOSHI, AGED ABOUT:70 YEARS, OCC:RETD, R/O.H.NO.105, 1ST FLOOR, ROSHINI APRATMENT, DESHPANDE NAGAR, HUBBALLI. PETITIONER (BY SHRI ANANT P. SAVADI, ADVOCATE) AND: THE ZONAL MANAGER, STATE BANK OF INDIA, CIRCLE-1, KESHAWAPUR, Digitally signed by HUBBALLI. MANJANNA

MANJANNA E E Date: 2024.02.06 RESPONDENT +0530 (BY SHRI SURESH S. GUNDI, ADVOCATE) THIS WRIT PETITION IS FILED

UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR DIRECTION OR ORDER QUASHING THE

ORDER PASSED BY THE HON'BLE CENTRAL GOVERNMENT

INDUSTRIAL TRIBUNAL CUM LABOUR COURT, BENGALURU, PASSED IN MISC.NO.2/2007 DATED 19.04.2017 PRODUCED AT ANNEXURE-A, IN THE INTEREST OF JUSTICE AND EQUITY. THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN B GROUP, THIS DAY, THE COURT MADE THE FOLLOWING: -2-

ORDER

1. The services of the petitioner was terminated on 19.01.1991. Being aggrieved by this termination, the petitioner raised dispute in CR.59/1991.

2. The Central Government Industrial Tribunal (CJIT for short) on 28.06.2001 passed an award ordering the restatement of the petitioner, however, without any backwages.

3. Learned counsel for the petitioner submits that,

three days after the award on 01.07.2001, the petitioner attained the age of superannuation and he retired. However, despite, the award of reinstatement he had not been reinstated and in view of his attaining the age of superannuation, he became entitled for payment of gratuity.

4. It is stated that, since the gratuity was not paid the petitioner was constrained to initiate proceedings under Section 33C(2) of the Industrial Disputes Act, 1947, -3- in the year 2007 and ultimately after an award was passed in favour of the petitioner the gratuity was paid only on 31.07.2017.

5. It is therefore the case of the petitioner that he

would be entitled for payment of interest on the gratuity amount from the date he attained the age of superannuation, and not just from 28.02.2007, as awarded by the Labor Court in the impugned award.

6. The fact that the CGIT by the impugned order

has come to the conclusion that the petitioner was entitled to a gratuity amount of Rs.55,413/- indicates that the petitioner was, in fact, entitled to get the gratuity immediately on the date he attained the age of superannuation. Since the petitioner was not paid the gratuity, on his retiring as a necessary consequence, he would also be entitled for the statutory rate of interest at 10% on the amount due to him. -4-

7. Learned counsel for the respondent-bank

however submits that the claim for gratuity itself was made in the year 2007 and therefore the CGIT was justified in awarding interest only from 2007 and the claim of the petitioner for interest from the date of his attending age of superannuation i.e., 2001, would not arise.

8. Learned counsel also submitted that the

petitioner could not have approached the CGIT seeking for payment of his gratuity and he ought to have approached the Controlling Authority under the Payment of Gratuity Act.

9. In my view, the respondent-bank having

accepted the award directing it to pay gratuity, it cannot be permitted to contend that the petitioner had to approach the authority under the Payment of Gratuity Act. Since it cannot be in dispute that the petitioner was entitled for payment of gratuity, necessarily, the date on which the petitioner became entailed to gratuity would be the date on which he attained the age of superannuation.

-5- Since gratuity is not paid immediately thereafter, the liability to pay interest on the said amount would also automatically follow.

10. Consequently, the respondent-bank is directed

to also pay interest at the rate of 10% from the date of on which the petitioner retired till 28.02.2007, i.e., the date on which he had made the application for payment of gratuity. This interest shall be paid to the petitioner within a period of two months from the date of receipt of copy of this order. Writ petition is therefore disposed off. Sd/- JUDGE EM/CT:BCK List No.: 1 Sl No.: 70

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