

Mansa Ram Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : May-14-2004

Reported in : 2004(4)AWC3567

Judge : Sunil Ambwani, J.

Acts : Uttar Pradesh Basic Education Act, 1972 - Sections 9; Uttar Pradesh Basic Education Provident Fund Rules, 1975

Appeal No. : C.M.W.P. No. 9487 of 2004

Appellant : Mansa Ram

Respondent : State of U.P. and ors.

Advocate for Def. : A.P. Pandey, C.S.C.

Advocate for Pet/Ap. : Y.K. Saxena and ;Anand Prakash, Adv.

Judgement :

Sunil Ambwani, J.

1. Heard Sri Yogish Kumar Saxena for petitioner and Sri Anand Prakash Pandey for Sri Pravin Kumar Tripathi, Finance and Accounts Officer in the office of Basic Shiksha Adhikari, Etawah.

2. Notices were issued to Sri Pravin Kumar Tripathi on 10.3.2004 and he was required to file an affidavit explaining the circumstances given by him in his letter dated 25.11.2003 to the Secretary, Lokayukta, U. P., Lucknow with regard to delayed payment of General Provident Fund (G.P.F.) payable to the petitioner. Sri Pravin Kumar Tripathi has filed a counter-affidavit on his behalf and on behalf of respondent Nos. 2 and 3. I also gave an opportunity to him to address the Court in person. With the consent of parties, this writ petition is being finally decided at this stage.

3. The petitioner was appointed as Assistant Teacher on 25.8.1952. With the enforcement of U. P. Basic Education Act, 1972 his services were transferred under Section 9 of the Act, to the U. P. Basic Education Board. He attained superannuation and retired on 30.6.1992. A sum of Rs. 65,000 was due to be paid to him as contribution made by him towards G.P.F., out of which he was paid only Rs. 31,616 on 1.6.1993 by Cheque No. 21 /24891. In spite of clear direction by the department to pay the entire G.P.F. amount immediately after the retirement, the respondents did not pay any attention to the repeated requests and the representations of the petitioner, who is now an old person of 70 years and is still running from pillar to post.

4. The petitioner sent a complaint to the Lokayukta, U. P., Lucknow on which the Secretary, Lokayukta (Administration) U. P., Lucknow issued notices to the Basic Shiksha Adhikari, Etawah/Auraiya. After receiving of the notices dated 11.1.2003, the respondents authorities paid a further sum of Rs. 14,960 through Cheque No. 48311/45 dated 31.1.2002. The remaining amount was still not paid to the petitioner. It is only when the Lokayukta, U. P., Lucknow took a serious view of the matter, that a further amount of Rs. 26,551 was paid to the petitioner on 28.1.2003 through Cheque No. 086481.

5. In response to the notice of Secretary, Lokayukta, U. P., Lucknow dated 28.4.2003, Sri Pravin Kumar Tripathi submitted an explanation. He admitted that the petitioner Sri Mansa Ram retired on 30.6.1992. He was paid Rs. 31,616 on 1.6.1993, On the complaint to Lok Ayukta, dated 11.1.2002, an amount of Rs. 14,916 was paid to him on 31.1.2002. In respect of some entries which were not

recorded in his account, the petitioner made a request for payment of interest and that in view of letter of Director of Education (Basic) and Chairman, Basic Education Board dated 10.6.1996, one year's interest amounting Rs. 26,551 was paid to the petitioner by cheque on 28.1.2003 and thus it was stated that the entire interest has been paid. At the end of the letter dated 25.1.2003 addressed to Secretary, Lokayukta, U. P., Lucknow, Sri Pravin Kumar Tripathi stated that the office building was shifted in 1993, in which many documents were misplaced and that inspite of efforts the list of G.P.F. payments to the petitioner's fund could not be traced out. Sri Tripathi explained that the work of calculation was made through a private agency, which had refused to work and that he is trying to complete the accounts on his personal computer at his residence and that he is also required to work as Finance and Accounts Officer in the office of District Inspector of Schools. He prayed for condonation of the error and pleaded that he will not make such error in future.

6. In the counter-affidavit of Sri Pravin Kumar Tripathi filed before this Court on 27.4.2004, he has come out with new facts. It is stated in paragraph 3 to the affidavit that a total amount of Rs. 65,000 was due to be paid to the petitioner towards G.P.F. on his retirement on 30.6.1992. The petitioner was paid Rs. 31,616 on 1.6.1993 and thereafter Rs. 14,960 and 26,551 including interest of one year on 31.1.2002 and 28.1.2003 respectively. These three payments included only one year Interest on G.P.F. of Rs. 8,127 whereas the petitioner was denied the payment of Rs. 23, 384 for 10 years beginning from 30.6.1992 upto 28.1.2003. In para 5 of the counter-affidavit, it is stated that Sri Tripathi took over as Accounts Officer at District Deoria on 16.1.2001. Before him Sri M. S. Ansar and Rajendra Singh were posted as Accounts Officer. Para 7 of the counter-affidavit of Sri Pravin Kumar Tripathi is quoted as below :

'That in reply of the contents of paragraph 4 of the writ petition, it is submitted that the petitioner has been paid the amount of G.P.F. in three instalments. However, it was the responsibility of the Officer, who could not have made payment of G.P.F. at the time, it seems that it happened on account of financial problems for the office of Basic Shiksha Parishad.'

7. In para 9 of the counter- affidavit it is submitted that as soon as the deponent came to know about the complaint of the petitioner, immediate action was taken and balance amount of G.P.F. was paid to the petitioner.

8. The letter sent by Sri Pravin Kumar Tripathi to the Secretary, Lokayukta, U. P. and the counter- affidavit filed before this Court are contradictory to each other. Whereas he pleaded misplacement of record before the Secretary, Lokayukta (Administration), now he is taking an excuse of financial problems in the office of Basic Shiksha Parishad. His conduct as a Government servant In taking contradictory stands before public authorities and Court, Is strongly deprecated. It amounts to misleading the Court and an attempt to conceal true facts.

9. The Court is deeply concerned with the plight of the petitioner who had to wait for 10 years to receive his G.P.F. payment of Rs. 23,384. I find from the record that the late payment was on account of gross negligence and mismanagement in the office of Finance and Accounts Officer, Basic Shiksha Parishad, Deoria. The General Provident Fund is not paid at the time of retirement by way of grace and bounty. This amount, deducted and paid by the employee is reserved for providence and must be immediately paid on the retirement. These contributions are made by the Government servant from his salary throughout his service tenure. The loss of records and financial problems cannot be taken as grounds to deny G.P.F. to a retired person. The circular letter of the Director of Education (Basic) dated 10.6.1996 provides that the payment should be made within 6 months. U. P. Basic Education Provident Fund Rules, 1975 provides that as soon as the contributor leaves the service of the Board his account should be closed and if the amount is not distributed within one year, the same should be transferred to non-active account. The sanction of payment should be ordinarily initiated before six months and that all the documents must be produced before the Accounts Officer and the payment must be made within three months from the retirement. The amount of interest will be payable on this amount only from the month on which, the payment is sanctioned beginning from the end of the previous month or month in which the amount is payable upto the expiry of 12 months whichever is earlier. This letter does not deal with the situation where the payment has been delayed for more than one year as no such situation could have been

contemplated.

10. Having regard to the facts and circumstances, and the negligence of Finance and Accounts Officer in making the payment of balance G.P.F. of Rs. 23,384 to the petitioner and for withholding the amount for 10 years without justification, the petitioner is held entitled to payment of interest on this amount at the rate of 10% per annum. The petitioner shall be paid interest at the rate of 10% per annum, and costs of Rs. 5,000 of this writ petition. The entire amount shall be sanctioned and paid to the petitioner within next three months, out of which the interest from 16.7.2001 to 28.1.2003 and the cost of this petition shall be recovered from the salary of Sri Pravin Kumar Tripathi, Finance and Accounts Officer in the office of Basic Shiksha Adhikari, Deoria. The Secretary, Education (Basic), U. P. at Lucknow shall also make an entry of the conduct, on the service record of Sri Pravin Kumar Tripathi.

11. The writ petition is partly allowed with the aforesaid directions.

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