

Mangat Singh Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Jul-06-2000

Reported in : (2001)1UPLBEC713

Judge : D.S. Sinha and ;Onkareshwar Bhatt, JJ.

Acts : Civil Service Regulations - Regulation 351A

Appeal No. : Civil Misc. Writ Petition No. 241 of 1998

Appellant : Mangat Singh

Respondent : State of U.P. and ors.

Advocate for Def. : C.S.C. and ;K.M. Sahai, Adv.

Advocate for Pet/Ap. : Ajit Kumar and ;Manu Saxena, Advs.

Disposition : Petition dismissed

Judgement :

D.S. Sinha, J.

1. Heard Shri Santosh Kumar, holding brief of Shri Ajit Kumar, the learned Counsel of the petitioner and Shri K.M. Sahai, the learned Standing Counsel of the State of U.P. representing the respondents.

2. The petitioner who belonged to the cadre of Uttar Pradesh State Education Services retired as District Inspector of Schools on 30th June, 1992. His grievance is that he is not being granted retiral benefits by way of gratuity and pension..

3. On 8th January, 1998 while entertaining the petition, the Court directed the respondents to grant to the petitioner the retiral benefits or show-cause within two months.

4. In response to the order of the Court dated 8th January, 1998 the respondents have filed a counter-affidavit, after serving a copy thereof on the Counsel of the petitioner on 15th April, 1998 showing cause for not granting the retiral benefits to the petitioner.

5. Despite lapse of more than two years of the service of the copy of the counter-affidavit, the petitioner has not filed any rejoinder affidavit. Thus, the averments made in the counter affidavit stand un rebutted.

6. In the counter-affidavit it is asserted that the petitioner was prima facie found guilty of serious financial and administrative irregularities and in that connection a departmental enquiry was initiated on 25th June, 1992. According to the averments made in the counter-affidavit the disciplinary enquiry is still pending.

7. Further assertion in the counter-affidavit is that the retiral benefits of the petitioner have been withheld on account of pendency of the disciplinary enquiry against him. In support of the action of withholding the pension, reliance is placed on the provisions of Regulation 351-A of the Civil Service Regulations, as made applicable in Uttar Pradesh, hereinafter called the 'Regulations'.

8. Regulation 351-A of the Regulations empowers the Governor to withhold or withdraw a pension or any part of it, whether permanently or for a specified period and order recovery from a pension of the whole or part of any pecuniary loss caused to the Government if the pensioner is found in departmental or judicial proceedings to have been guilty of grave misconduct, or to have caused pecuniary loss to Government by misconduct or negligence during his service, including service rendered on re-employment. The exercise of this power is subject to

certain limitations which are not relevant for the purposes of this petition.

9. On the facts and circumstances, and in view of the provisions of Regulation 351-A of the Regulations noticed above, it cannot be said that the retiral benefits of the petitioner have been illegally withheld. Withholding of retrial benefits of the petitioner on account of pendency of disciplinary enquiry proceedings against him is, in the opinion of the Court, valid justification. Therefore, the grievance of the petitioner is devoid of substance.

10. However, the Court feels that the disciplinary enquiry against the petitioner has remained pending for sufficiently long time to be precise, more than eight years. It should have been conducted expeditiously. The Court expects that the disciplinary enquiry against the petitioner shall be conducted very expedition sly and the matter of grant of retiral benefits to the petitioner shall be decided by the respondents soon thereafter. In the meantime, the interim pension already sanctioned shall continue to be paid to the petitioner.

Subject to what has been said above the petition is dismissed summarily.