

Anil Jain Vs. Managing Director, M.P.R.T.C. and anr.

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Court : Madhya Pradesh

Decided On : Feb-13-2008

Reported in : [2008(118)FLR462]

Judge : J.K. Maheshwari, J.

Appellant : Anil Jain

Respondent : Managing Director, M.P.R.T.C. and anr.

Advocate for Pet/Ap. : Shri. C.M. Nair Counsel

Judgement :

J.K. Maheshwari, J.

1. This order shall govern the disposal of all other similar writ petitions, the details thereof are mentioned in a separate list appended to this judgment.

2. The bunch of all these writ petitions involve two sets of cases; in one set, the employees have retired on attaining the age of superannuation or under the voluntary retirement scheme floated by the Corporation and received the amount of E.D.F, but interest on the said deposits or on dearness allowance has not been paid. In other set, employees are working in the Corporation, claiming interest on the deposits or on the amount of dearness allowance deposited in Employees Deposit Fund Scheme.

3. In all these petitions a common question of law requires adjudication 'whether employees of the Madhya Pradesh State Road Transport Corporation, either retired or in employment are entitled to get interest on the deposits or on dearness allowance deposited under the Employees Deposit Fund Scheme, and what should be the rate thereof?'

4. As the common question of law is involved in all the writ petitions, therefore, it is being decided by the common order, for the ready reference facts are being referred from W.P. No. 7350/2007(S) (Anil Jain v. M.D., MPRTC). It is the case of petitioner that respondents M.P. Road Transport Corporation is duly constituted under Section 3 of the Road Transport Corporation Act, 1950, it is fully owned and controlled by the Government however falls within the definition of State as per Article 12 of the Constitution of India; and amenable to writ jurisdiction of this Court. Petitioner, who is an employee of the said Corporation has filed this petition claiming interest and rate thereof on the deposits or on dearness allowance kept in a separate fund, under the scheme which is known as Employees Deposit Fund Scheme. It is not in dispute that dearness allowance, which was payable to the employees was not paid during the period 1.7.1995 to 31.3.2002. The said amount ought to have been deposited by the Corporation in a fund known as Employees Deposit Fund created for the said purpose and interest thereupon is leviable. However, it is prayed, on deposits under the Scheme and on dearness allowance the interest by the rate as prescribed by the State Government as per notifications on year to year basis may be directed.

5. Learned Counsels appearing for petitioner submits that M.P. State Road Transport Corporation has framed a regulation in exercise of power conferred under Section 45 of the Road Transport Corporation Act, 1950, which is known as M.P. Road Transport Corporation Employees Deposit Fund Regulation, 1985. The regulation was enacted in furtherance to the Board resolution No, 2560 dated 4.9.1985 and obtained approval from the Home Department, and circulated vide circular No. 186 dated 17.3.1986. Under the Regulation 'fund' means the Madhya Pradesh State Road Transport Corporation employees deposit fund. As per Clause-7 of the Regulation employees deposit fund was created by making deduction from monthly emoluments of the employees covered under the Scheme.

Tire deduction on account of arrears of dearness allowance, or additional allowance may be decided upon by negotiation with recognised representative union of the employees of the Corporation. Under Clause-10, Corporation is bound to pay the interest on the deposits at such rate and in accordance with such method of calculation as prescribed from year to year by the State Government in respect of general provident fund accounts. The manner of calculation of interest has further been prescribed in Sub-clauses (2)(3) and (4) of the said Clause 10.

6. It is further contended that the rate of interest payable on deposits has been prescribed by the State Government by issuing various notifications on year to year basis. The number of notification, financial year and the rate of interest as prescribed in the notification is reproduced herein below:

S. No. Date of Notification Financial Year Rate of interest

1. 5/6/1995 1995-96 12%

2. 19/12/1996 1996-97 12%

3. 24/7/1997 1997-98 12%

4. 30/5/1998 1998-99 12%

5. Not known 1999-2000 12%

6. 24/3/2000 2000-01 11%

7. 3/5/2001 2001-02 9.5%

8. 20/5/2002 2002-03 9%

9. 6/5/2003 2003-04 8%

10. 27/8/2004 2004-05 8%

11. 20/9/2005 2005-06 8%

7. Thus it is contended, the rate of interest payable on deposits has been decided by the Government in view of the provisions of Clause-10 of the Regulation, and the calculation of interest ought to be made in the manner specified in Sub-clause (2) (3) and (4) of Clause 10 of Regulation. In support of his contention reliance has also been placed on a judgment of this Court delivered in W.P. No. 8209/06 (S) Pramod Limaye and Ors. v. M.D.M.P.R.T.C. and Ors. decided on 1.10.2007, whereby the direction was issued to calculate the amount of interest on dearness allowance as per the rate prescribed by the State Government by various notifications and payable to the employees within four months. It was also submitted that the Corporation had preferred the writ appeal No. 637/2007 before the Division Bench, which was dismissed on 7.2.2008, therefore, respondents are bound to pay interest on the deposited under employees deposit fund scheme or on dearness allowance and as per the rate prescribed, and governed by the statutory regulation.

8. Shri G.S. Patwardhan, Shri K.R. Pawar and Shri S.H. Karanjawala, Counsel appearing for the respondents Corporation submits that the Managing Director of M.P.S.R.T.C has issued various circulars dated 15.7.1996, 1.6.1999 and 27.4.2000 whereby it was decided that the amount of deposits under the Scheme is liable to be refunded without interest. However, it is urged that petitioners are not entitled to get interest on the said amount or as per the rate of interest, if any, prescribed by the Government. In an alternate it is said that the question of payment of; interest has been thrashed out by this Court in W.P. (S). No. 334/2004 in the case of Ramchandra Yadav and Ors. v. The M.D.M.P.S.R.T.C. and Anr. wherein it is held that regulations of the Corporation having statutory force and respondents are required to pay interest on 50% deducted amount of dearness allowance. The Court further directed for payment of interest at the rate of 8%,per annum because of delay caused by the petitioner in filing of the petition. However, it is urged that in any case, if interest is payable, it may be hardly at the rate of 8% p.a. and not as per the notifications issued by the Government however prayed for dismissal of all the petitions.

9. I have heard learned Counsel appearing for the parties and perused the records. On perusal, It is not in dispute that the regulation was framed under Section 45 of the Road Transport Corporation Act, 1950. The said Regulation known as M.P. State Road Transport Corporation Employees Deposit Fund Regulation, 1985. On seeking approval, it is duly circulated. Clause (10) of the Regulation makes it mandatory upon the Corporation to pay interest on the deposit at such rate and in accordance with such method of calculation as may be prescribed from year to year to by the State Government in respect of general provident fund accounts. It is also not in dispute that for the purpose of Clause-10 of said Regulation, the Government has issued various notifications prescribing rate of interest to the different financial years as quoted above in para 6. Thus, on the amount deposited or on the dearness allowance deposited, under the scheme is payable by the Corporation alongwith interest at such rate and in accordance with such method of calculation as may be prescribed from year to year by the State Government in respect of general provident fund accounts and the manner of calculation of interest prescribed in Sub Clauses (2) (3) and (4) of Clause 10 of Regulation. Thus, looking to such unambiguous legal position, the only irresistible

conclusion arrived that the employees of the M.P.S.R.T.C. are entitled to get interest on the deposits under Employees Deposit Fund Scheme.

10. Now the question with respect to rate of interest remains for determination. Shri Patwardhan has relied upon the circular dated 15.7.1996, 1.6.1999 and 27.4.2000, by which the Corporation has taken a decision of nonpayment of interest on the amount of such deposit. In an alternative by placing reliance on the judgment of Ramchandra Yadav (supra), it is said that the award of interest may be directed only up to 8% per annum and no more. It is further argued by Shri Patwardhan that on the principle of stare decisis judgment of Ramchandra Yadav (supra) must be followed in other similar cases. In support of his contention, reliance is placed on the decision of Hon'ble Supreme Court, in the case of Sajjan Singh and Ors. v. The State of Rajasthan and Ors. AIR 1965 SC 845.

11. On the other hand Shri C.M. Nair Counsel appearing for petitioner submits that judgment of Ramchandra Yadav (supra) was based on its own facts, wherein the notifications issued by the Government deciding the rate of interest on year to year basis was not brought to the notice of the Court. It is further said that since the payment of interest was statutorily governed as per the Regulation, and the rate of such interest has been prescribed by the Government as per notifications, however, the Corporation by issuing circulars cannot deviate from discharge of his statutory obligation of payment of interest arbitrarily. It is further said that once payment of interest is governed under the statute, which cannot lower down for any reason whatsoever. Counsel further submits that the judgment of Ramchandra Yadav (supra) has been taken into consideration by this Court in a later judgment of Promod Limaye (supra) and held that the amount of interest which is prescribed by the statute cannot be reduced or denied by issuing circulars. The said judgment of Promod Limaye (supra) has been upheld by the Division Bench vide order dated 7.2.2008 passed in Writ Appeal No. 636/2007. The Division Bench has held that the observations made by the learned Single Judge in the case of Ramchandra Yadav (supra) does not ordain that in all cases interest shall be payable 8% notwithstanding the statutory notifications requiring the payment of interest at higher rate from time to time. Division Bench has further observed that judgment of Ramchandra Yadav (supra) is based on its own facts and principle of

stare decisis does not attract. It is further held that in the case of Pramod Limaye (supra) the notification prescribing statutory rate of interest was brought on record, therefore, the later decision, in the case of Promod Limaye (supra) does not violate the principle of stare decisis. In view of the foregoing discussion, it is apparent that judgment of Ramchandra Yadav (supra) was on its own facts and later judgment rendered in the case of Promod Limaye (supra) was based on the notifications issued by the Government prescribing the rate of interest, which statutorily regulate such rate of interest, therefore, principle of state desicis is not attracted. It is to be further held that on the deposits under the employees deposit fund scheme interest is leviabale as par the notifications issued by the State Government prescribing the rate thereof on year to year basis in respect to general provident fund accounts. The manner of calculation of interest has also been specified in Sub Clauses (2) (3) and (4) of Clause 10 of Regulation. Accordingly, all the petitioners are held entitled to get interest on the deposits and on clearness allowance as per the rate prescribed by the Government and in the manner specified under the Regulation.

12. In some of the case petitioners have also prayed for other reliefs much less ancillary, however to claim those reliefs petitioners shall be at liberty to take recourse of law separately or afresh after submitting representation to get redress their grievance. '

13. In view of the above, I allow these petitions with the following directions:

(i) The Employees of the Corporation, who are still in employment shall be entitled to. receive interest on the deposits of the Employees Deposit Fund Scheme as per the rate prescribed through notifications issued by the State Government and as per the method of calculation prescribed from year to year basis in respect of general provident fund accounts, and in the manner specified in Sub Clauses (2) (3) and (4) of Clause 10 of Regulation.

(ii) In the case of those employees who have retired voluntarily under the scheme or have attained the age of superannuation from the employment of Corporation shall also be entitled to receive interest on the deposits of Employees Deposit Fund Scheme, as per the rate prescribed through notifications issued by the State

Government and as per the method of calculation prescribed from year to year basis in respect of general provident fund accounts, and in the manner specified in Sub Clauses (2) (3) and (4) of Clause 10 of Regulation.

(iii) In the case of retired employees, respondent Corporation shall calculate the amount of interest as directed herein above and shall release them within the period of 4 months from the date of communication of this order and in the case of other employees it will be deposited in the fund under the Scheme. In the facts and circumstances of the case there shall be no order as to costs.

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