

Govind Chander Mathur Vs. State and ors.

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Court : Rajasthan

Decided On : Feb-26-1996

Reported in : 1996(2)WLC348; 1996(1)WLN231

Judge : N.C. Kochhar, J.

Appeal No. : S.B. Civil. Writ Petition No. 3002 of 1995

Appellant : Govind Chander Mathur

Respondent : State and ors.

Judgement :

N.C. Kochhar, J.

1. The petitioner retired as a Superintending Engineer from the Ground Water Department, on 30th April, 1995, but his pension is not being paid by the respondents.

2. On receipt of notice of the writ petition, a reply has been filed, stating that the petitioner was Officer-Incharge in some of the court-cases and was having possession of some of the files of the department, which, he has not returned and, as such, 75. percent of the pension due to the petitioner, has been released and only 25 per cent has been withheld.

3. In the rejoinder, the petitioner has denied that he is in possession of any files, which fact has been disputed by the respondents, in the reply to the rejoinder.

4. I have heard the learned counsel for the parties.

5. Shri K.L. Jasmatia, the learned Additional Advocate General, states that the petitioner has not approached this Court, with clean hands, inasmuch as he has not returned the files of the department and that as such, he cannot invoke the discretionary jurisdiction of this Court under Article 226 of the Constitution of India.

6. As noted above, the petitioner has specifically denied that he is in possession of any files of the department and, as such, it cannot be said that he is seeking the aid of the Court, by keeping the files or any other material of the Government with him and he can be non-suited on that account.

7. The next contention of Shri Jasmatia, is that the petitioner had to obtain 'no-dues' certificates from all the departments and that he having not obtained the same, after returning the files of the department, 25 per cent of his pension has been withheld by the respondents.

8. No rule has been brought to my notice, under which, the respondents have any power to withhold the pension of anyone, because of non-return of files, if any, Even if the petitioner has failed to return certain files, the respondents may be free to take such action against him, as may be available to them, under the law, but in the absence of any rule, the respondents' action of withholding his pension, is wrongful.

9. Consequently, while allowing the writ petition, it is directed that the pension of the petitioner, should be released forthwith. The fact that the respondents wrongfully withheld the pension, due to the petitioner and also paid its 75 per cent only after the receipt of the notice of the writ petition, shows that the respondents compelled the petitioner to approach this Court by filing this writ petition, The pension becomes due to a Government Servant, immediately on his retirement, and if the amount due to anyone is withheld by the person, responsible to pay the same, the Government Servant concerned has a right, to receive interest thereon

as well. It is, therefore, directed that the amount of pension, withheld, should be paid along with interest at the rate of 12 per cent per annum from the date that it was withheld till the date it was actually paid, on 75 percent of the amount of pension and the remaining amount Should also be paid, along with interest till the date of its payment. The petitioner is also held to be entitled to the costs, to be received from the respondents, which are assessed at Rs. 2,000/-.

10. The wilt petition stands disposed of accordingly.

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