

Court No. - 8

Case :- WRIT - A No. - 2349 of 2013

Petitioner :- Shatrohan Prasad Chaudhari

Respondent :- State Of U.P.Thr.Prin.Secy.Deptt.Of Agriculture Lko.And Others

Counsel for Petitioner :- Abhaya Kumar Dixit,Atul Dixit,Atul Kumar Dixit

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Sri Abhaya Kumar Dixit, learned counsel for the petitioners and Sri Uttam Kumar Srivastava, learned Standing Counsel.

2. The present writ petition under Article 226 of the Constitution of India has been filed seeking a writ of Mandamus commanding the opposite parties to pay the unpaid death-cum-retirement dues of late Shatrohan Prasad Chaudhari with interest.

3. The present case is a long chequered history of litigation. The deceased, Shatrohan Prasad Chaudhari while working as Agriculture Inspector, was dismissed from service on 18.9.1981. The said order of dismissal was quashed by the Uttar Pradesh Public Service Tribunal in the year 1996 with direction that Shatrohan Prasad Chaudhari should be paid the salary of the said period and the said period should be treated as continuity in service, and if he was retired, his retirement dues should be paid to his legal heirs. Against the said order passed by the Public Service Tribunal, the State filed a writ petition before this Court. However, the said writ petition came to be dismissed on 30.5.2012.

4. It appears that in pursuance to the liberty granted by the Public Service Tribunal for proceeding afresh in the departmental proceedings from the stage of filing the reply to

the charge sheet, the departmental proceedings were instituted. However, as Shatrohan Prasad Chaudhari had retired on 31.7.1994 on attaining the age of superannuation, he was paid salary for the period till his reinstatement from the date of his dismissal from service, and he was also paid some retirement dues. However, GPF amount, leave encashment and security deposited by Shatrohan Prasad Chaudhari were not paid.

5. In respect of the GPF amount, it has been said that since no record of any deduction has been made from his salary towards GPF, no GPF amount is admissible to Shatrohan Prasad Chaudhari.

6. Learned counsel for the petitioner has no objection to the said stand of the opposite parties.

7. Admittedly, Rs.28,603/- in respect of the leave encashment and security was withheld with the consent of Shatrohan Prasad Chaudhari till the result of the disciplinary proceedings. Fate of the disciplinary proceedings is not known. Nowhere in the counter affidavit or in the additional affidavits filed on behalf of the State disclose the fate of the disciplinary proceedings against Shatrohan Prasad Chaudhari. Therefore, this Court would deem that Shatrohan Prasad Chaudhari was not finally found guilty in the disciplinary proceedings or the disciplinary proceedings were aborted against Shatrohan Prasad Chaudhari.

8. Thus, two amounts i.e. Rs.26,603/- towards leave encashment and Rs.2,000/- security amount ought to be paid to the legal heirs of Shatrohan Prasad Chaudhari, who were substituted as petitioners in this writ petition.

9. Sri Uttam Kumar Srivastava, learned Standing Counsel also does not have much to say for payment of these two payments to the petitioners, who are the legal heirs of Shatrohan Prasad Chaudhari.

10. Late Shatrohan Prasad Chaudhari retired on 31.7.1994. Leave encashment and security would have been paid to Shatrohan Prasad Chaudhari as if there was no disciplinary proceedings. However, as there is no punishment, this Court would treat that the petitioners, who are the legal heirs of late Shatrohan Prasad Chaudhari, are entitled for payment of the said amount.

11. In view thereof, opposite parties are directed to pay Rs.28,603/- (Rs.26,603/- of leave encashment and Rs.2,000/- security) with interest @8% per annum w.e.f. 1.4.1996 i.e. next day from the date of the judgement of the Public Services Tribunal. The said calculation should be made and the amount should be paid within a period of two months to the petitioners in equal share.

12. Subject to above noted terms, the present writ petition is *allowed*.

Order Date :- 14.7.2023

Rao/-