

Court No. - 7

Case :- WRIT - A No. - 4765 of 2023

Petitioner :- Raj Kumar Tripathi

Respondent :- Union Of India Thru. Prin. Secy. Ministry Of Finance New Delhi And 2 Others

Counsel for Petitioner :- Osama Ahmad Abbasi

Counsel for Respondent :- A.S.G.I.,Anil Srivastava

Hon'ble Abdul Moin,J.

Rejoinder affidavit filed today is taken on record.

Heard learned counsel for the petitioner, Ms Harsha Yadav, learned counsel for the respondent no. 1 and Shri Anil Srivastava, learned counsel for the respondents no. 2 and 3.

The contention of learned counsel for the petitioner is that despite the petitioner having retired on attaining the age of superannuation on 31.10.2021 his gratuity, commutation of pension, regular pension etc have not been paid. Further prayer is for direction to the respondents to calculate the stagnation increments that occurred during his service in July 2013, July 2015, July 2017, July 2019 and July 2021.

This Court had required the respondents to seek instructions.

Subsequent thereto the respondents filed counter affidavit to which rejoinder affidavit has already been filed.

The contention of Shri Anil Srivastava, learned counsel for the respondents is that the gratuity and other retiral dues have not been paid to the petitioner as the petitioner has been convicted by competent criminal court vide the judgement and order dated 22.12.2022, a copy of which is annexure 1 to the counter affidavit. The said conviction was under the provisions of Prevention of Corruption Act, 1988.

Placing reliance on the General Insurance (Employees) Pension

Scheme, 1995 the contention is that clause 42 of the Scheme 1995 with which the pension of the employees of the respondent corporation is concerned gives the power to the competent authority to pass an order in writing withholding or withdrawing pension or part thereof whether permanently or for a specified period if the pensioner is convicted of serious crime or is found guilty of grave misconduct.

Shri Anil Shrivastava argues that as the order of the competent court of law whereby the petitioner has been convicted of serious offence has already been passed on 22.12.2022 as such the competent authority be permitted to pass an order considering clause 42 and 43 of the Scheme 1995 in this regard.

Accordingly, considering the fact that the respondents are still to pass a final order on the claim of the petitioner pertaining to grant of full pension, gratuity and other retiral dues as such the instant writ petition is **disposed of** with a direction to the competent authority to pass a final order in terms of the Scheme 1995 in accordance with law.

Let such an order be passed within a period of six weeks' from the date of receipt of a certified copy of this order.

It is further provided that in case the petitioner is aggrieved by the order which is passed by the respondent it is always open for him to challenge the said order before appropriate court in appropriate proceedings.

Order Date :- 30.11.2023
J.K. Dinkar