

Court No. - 8

Case :- WRIT - A No. - 6182 of 2019

Petitioner :- Munish Kumar Saxena

Respondent :- State Of U.P. Thru Prin.Secy. Food And Civil Supplies
Lko.Andors

Counsel for Petitioner :- Jagdambika Prasad Tripath, Indra Jeet
Yadav, Vishwanath Prasad Tripath

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh, J.

1. Heard Sri Sidharth Sharma, learned counsel for the petitioner and Sri Dhirendra Singh, 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 release the pension, commutation of pension, gratuity, GPF, security money of Rs.2,000/- in the shape of NSC and benefit of ACP etc. of the petitioner along with interest @12% per annum within specified time.
3. During the pendency of this petition, the petitioner, Munish Kumar Saxena died on 21.3.2019 and his legal heirs were substituted in pursuance to the order passed by this Court on 20.9.2022.
4. Late Munish Kuamr Saxena while working as Marketing Inspector, retired from the said post on 30.6.2012. After he retired, he was paid GIS, leave encashment and provisional pension. During his service, while he was posted at Moradabad in 1993, on 19.8.1993 an FIR at Case Crime No.898 of 1993 came to be registered under Section 302 IPC against him at Police Station Katghar, District Moradabad. Late Munish Kumar Saxena was detained in prison in respect of the said case from 19.8.1993 to 21.1.1995. Munish Kuamr Saxena was

convicted and sentenced to life imprisonment by the learned Sessions Court vide judgement and order of conviction dated 19.4.2022 in Session Trial No.981 of 1993. Against the said conviction and sentence, Munish Kumar Saxena had preferred Criminal Appeal No.2073 of 2002 before the High Court and he was enlarged on bail.

5. late Munish Kuamr Saxena was a convict and the conviction was not stayed by this Court and only the sentence was suspended, but he was sanctioned provisional pension till final decision in the appeal by the High Court as per the provisions of Rue 351-A of the Civil Services Regulations.

6. Regarding payment of GPF, in the counter affidavit, it has been said that the entries of the deductions made from the salary of late Munish Kumar Saxena in GPF head were missing in the GPF Pass Book No.FSU 4914, his pass book was sent to all places by the District Food Marketing Officer, Shahjahanpur in order to complete the entries in the GPF pass book. After the entries got completed, the amount was paid to the dependents/legal heirs of late Munish Kumar Saxena. Munish Kumar Saxena was not given the benefit of Assured Career Progression (ACP) as his services were not found to be satisfactory from the year 1993-1994 till 2001-2002 except for two years. After the death of Munish Kumar Saxena, the appeal filed by him against the conviction got abated.

7. Abatement is not an acquittal. Late Munish Kumar Saxena was a convict and during the pendency of the appeal, he had died, therefore, legal heirs of late Munish Kumar Saxena are not entitled for full pension as claimed in the writ petition. GPF amount has already been paid to the legal heirs of late Munish Kumar Saxena and the claim of ACP has been denied for a valid reason.

8. In view thereof, I do not find any substance in the present writ petition, which is hereby ***dismissed***. Interim order, if any, stands vacated.

Order Date :- 25.5.2023

Rao/-