

Court No. - 20

Case :- WRIT - A No. - 7272 of 2023

Petitioner :- Dr. Sushil Kumar Verma

Respondent :- State Of U.P. Thru, Prin Secy. Animal Husbandry Deptt. Govt. Lko. And 2 Others

Counsel for Petitioner :- Desh Raj Singh Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.

2. Petition has been filed challenging order dated 03.02.2023 whereby gratuity amounting to Rs.1,14,915/- has been withheld by the opposite parties pending audit objections. Further prayer directing the opposite parties for payment of outstanding gratuity along with interest has also been sought.

3. On 26.09.2023, the following order had been passed:-

"1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.

2. Under Challenge is the order dated 03.02.2023 whereby petitioner's representation for payment of gratuity has been rejected on the ground of pendency of audit objections pertaining to receipt not been submitted by petitioner for purchase of diesel while in service.

3. It has been submitted that petitioner has superannuated from service on 31.01.2017 and has drawn attention to the no objection certificate issued by the concerned authority dated 07.09.2016 regarding petitioner.

4. It is submitted that the aforesaid gratuity amount has been withheld only on the ground of audit objections without conducting any inquiry against petitioner and ignoring the no objection certificate issued by the concerned authority.

5. With regard to such submissions, learned State Counsel is granted two weeks' time to obtain instructions.

6. List on 18.10.2023 as fresh. "

4. In pursuance thereof, learned State Counsel has been

provided written instructions dated 11.10.2023 submitted by the Director, opposite party no.2, which is taken on record, and in which it has been stated that the aforesaid amount of gratuity has been withheld on account of audit objections. It has been admitted that petitioner has superannuated from service on 31.01.2017 and also states that the outstanding amount of gratuity has been withheld in pursuance to directions dated 13.07.2017 issued by the Pension Directorate.

5. Learned counsel for petitioner submits that earlier regarding the aforesaid outstanding dues, petitioner had filed Writ Petition No.686 of 2020 which was disposed of vide order dated 21.02.2022 directing opposite parties to consider petitioner's representation. It is in pursuance of said directions that the impugned order has been passed again reiterating the same aspect of pending audit objections for denying gratuity payment to petitioner.

6. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record including the written instructions, it is evident that opposite parties have admitted the fact that petitioner has superannuated from service on 31.01.2017. No objection certificate was also issued to petitioner by the concerned authority on 07.09.2016. No provision of law has been indicated whereby gratuity can be withheld only on account of audit objections being pending against a superannuated employee. Even otherwise, the State Authorities cannot be permitted to deny pensionary benefits to employees only on account of audit objections which remain pending interminably as in the present case where such audit objections have not been decided even after passing of six years from superannuation of petitioner. The instructions also do not indicate any orders having been passed indicating the law whereby such a gratuity payment to petitioner can be withheld.

7. In view of the aforesaid, the impugned order dated 03.02.2023 is quashed by issuance of a writ in the nature of Certiorari. A further writ in the nature of Mandamus is issued to the opposite parties commanding them to pay outstanding gratuity amount to petitioner within a period of two months from the date a certified copy of this order is produced before the concerned authority.

8. In view of unnecessary and inordinate delay in making payment of gratuity to petitioner, the opposite parties are also directed to make payment of interest at the rate of 6% per annum from the date of superannuation till the date of actual payment. The interest component shall also be paid along with gratuity within the same time period.

9. The petition, as such, stands **allowed**.

10. Parties to bear their own costs.

Order Date :- 18.10.2023

Arnima