

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.7929 OF 2003

ORDER

This writ petition is filed seeking the following relief:

“to issue a Writ, Order, or Direction more in the nature of writ of Mandamus declaring the impugned communication in HD/TKP/03, dated 3.3.2003 as illegal, arbitrary and violative of Articles 14, 21 and 300-A of the Constitution of India and consequently to direct the respondents to pay the amounts (i) Differential amount of VR Compensation, surrendered earned leave encashment, encashment of earned and sick leave surrendered at the time of retirement as per Office Order, dated 31.5.2002; (ii) to pay an amount of Rs.56,877/- with interest which was illegally recovered from my retirement benefits; (iii) to pay an amount of Rs.5,500/- as requested by the petitioner in his representation dated 31.03.2011; (iv) to calculate the VR Compensation and other benefits on par with Sri G.Adinarayana Reddy; and to pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.”

Heard Sri M.Sudheer Kumar, learned counsel appearing for the petitioner, and Sri B.Siva Kumar, learned Standing Counsel appearing for the respondents.

It is the case of the petitioner that he joined in the respondent-Organization on 23.12.1974 as Tradesman-B. Thereafter, he was promoted to various posts and finally, he was promoted as Assistant Manager in the month of July, 1999

and he was discharging his duties as such. While so, the respondent-Organization had come up with Voluntary Retirement Scheme in the year 2001. Pursuant to the same, the petitioner opted the said scheme and retired from service on 31.03.2001. Thereafter, the respondent-organization *vide* proceedings dated 31.5.2001, revised the pay scales with effect from 1.1.1997.

The grievance of the petitioner is that though he was in service as on 1.1.1997, the respondent-Organization is not extending the benefit of pay revision to him.

Learned counsel appearing for the petitioner submits that an amount of Rs.56,877/- was recovered from the terminal benefits of the petitioner without giving any break up; that in support of his contention, he placed reliance on the judgment of the Apex Court in *State of Punjab vs. Rafiq Masih (white washer)*¹; that as per the said judgment, the amounts cannot be recovered from the retired employees; and that the said amount of Rs.56,877/- was illegally recovered from the petitioner, which is contrary to the judgment of the Apex Court (cited *supra*).

¹ (2014) 8 SCC 883

Learned Standing Counsel appearing for the respondent-Organization contends that the petitioner is not entitled for arrears of revised pay scales; that in support of his contention, he placed reliance on the judgment of the Apex Court in *A.K.Bindal and Anr vs. Union of India (UOI) and Ors*²; that as per Clause 10.6 of the Circular dated 31.5.2001, the payment of arrears of revised pay scales from 31.03.2001 will be paid subject to generation of sufficient resources.

Admittedly, the respondent-Organization has become sick and it has been referred to BIFR.

Similar issue fell for consideration before this Court in W.P.No.24197 of 2002. This Court *vide* order dated 11.11.2003 allowed the said writ petition. In W.A.No.919 of 2004, the Division Bench confirmed the order passed by the learned Single Judge on 5.11.2009.

In view of the same, and in the light of the provisions of the Office Order dated 31.5.2001, this Writ Petition is allowed and the petitioner is entitled for payment of arrears of salary and other allowances. The respondent-organization is directed to extend the said benefit to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. In so far the recovery of an amount of Rs.56,877/- is concerned, in view of the judgment of the Apex Court in *State*

² (2003) 5 SCC 163

of Punjab vs. Rafiq Masih (white washer) (cited supra), the amount cannot be recovered from the terminal benefits of the petitioner after retirement. The respondent-Organization is directed to refund the said amount to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

25th October, 2018
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