

(2008) 08 AHC CK 0291

Allahabad High Court

Case No: None

Smt. Kavita Kumar

APPELLANT

Vs

The State of U.P., Irrigation
Department, The
Engineer-in-Chief, Irrigation
Department, The Superintendent
Engineer and The Executive
Engineer

RESPONDENT

Date of Decision: Aug. 11, 2008

Citation: (2008) 119 FLR 787 : (2008) 3 UPLBEC 2257

Hon'ble Judges: V.M. Sahai, J; S.P. Mehrotra, J

Bench: Division Bench

Final Decision: Allowed

Judgement

V.M. Sahai and S.P. Mehrotra, JJ.

The present writ petition has been filed, inter-alia, praying for issuance of writ in the nature of mandamus for award of interest on the delayed payment of the retiral benefits payable in respect of the deceased husband of the petitioner.

2. We have heard Sri Vipin Saxena, learned Counsel for the petitioner and Sri A.N. Shukla, learned standing Counsel appearing for the respondents No. 1 to 4.

3. The husband of the petitioner Ajay Kumar was working as Assistant Engineer in the Irrigation Department of the State of U.P. He died in service while he was posted at Saharanpur on 30.11.1994. The respondents did not pay his post-retiral benefits including family pension on the ground that some advances were outstanding against him. From the enquiry report filed as Annexure-1 to the writ petition, it is clear that the petitioner was transferred from Kanpur to Saharanpur in August 1986. But the then Executive Engineer Sri P.P.N. Singh kept on withdrawing the money and raising amount as advances to the petitioner from September 1986 to August 1987 when the petitioner was working at Saharanpur and there was no question of

advancing any amount to the petitioner at Kanpur. The enquiry report which is of January 1998 filed as Annexure-1 to the writ petition, also reveals that the main responsibility was of the Executive Engineer Sri P.P.N. Singh. However, in pursuance of the enquiry report, no further action was taken in the matter but the post-retiral benefits were released on 1.9.2000.

4. The consistent view of the Apex Court is that for delayed payment of post-retiral benefits, interest should be awarded if it is found that the delay was caused due to inaction of the respondents. Reference in this regard may be made to the following decisions:

1. [State of Kerala and Others Vs. M. Padmanabhan Nair,](#)
2. O.P. Gupta v. Union of India and Ors. 1987 UPLBEC 583 (para 24)
3. R. Kapur v. Director of Inspection (Painting and Publication) Income Tax and Anr. (1995) 1 UPLBEC 89 (SC) (paras 9 and 10)
4. [S.R. Bhanrale Vs. Union of India and others,](#)
5. Dr. Uma Agrawal v. State of U.P. and Anr. (1999) 2 UPLBEC 1006 (paras 1, 2 and 5)
6. Vijay L. Mehrotra v. State of U.P. and Ors. (2000) 2 UPLBEC 1599 (paras 3 and 4)
7. S.K. Dua v. State of Haryana and Anr. (2008) 1 UPLBEC 301 (para 11)

5. We are also of the considered view that the delay in making payment of post-retiral benefits to the petitioner after the receipt of the enquiry report in January, 1998, was due to the fault of the respondents. After the enquiry report was received in January 1998, the respondents did not release the post-retiral benefits, therefore, the petitioner was constrained to file a writ petition in the year 1999, then a contempt petition in the year 2000, and thereafter, the present writ petition in the year 2001. In this view of the matter, we are of the opinion that interest of justice would be subserved if 12% simple interest is awarded to the petitioner with effect from February 1998 till 31st August, 2000. So far as the period from December, 1994 till January, 1998 is concerned, the matter regarding advances to the petitioner was evidently under consideration, and the respondents cannot be held responsible for the delay during that period.

6. In the result, the writ petition succeeds and is allowed. A writ of mandamus is issued directing the respondents to pay 12% simple interest to the petitioner with effect from February 1998 till 31st August, 2000. The amount of interest shall be paid by the respondents to the petitioner within a period of three months from the date a certified copy of this order is produced before respondent No. 1.

Parties shall bear their own costs.