

**ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD
12.12.2007BEFORE**

THE HON'BLE SUDHIR AGARWAL, J.

Civil Misc. Writ Petition No. 53432 of 2008

Smt. Shajida Khan

...Petitioner

Versus

State of U.P and Others

...Respondents

Counsel for the Petitioner:

Sri P.N. Pandey

Counsel for the Respondents:

Sri Mehendra Kumar Pandey S.C.

Constitution of India, Art. 226, Art. 21- Service Law Revised family pension- petitioner's husband died after 31 years satisfactory service-1991 family pension fixed Rs.966/-while in Moti Lal Agarwal case-family pension should not be less than Rs.1275/-respondent itself accepted the claim-only reason of financial security can not be ground- once the court adjudicated in rem considering particular legal aspect-body expected to implement the same forcing the individual to approach the court amounts multiplicity of litigation- necessary direction issued with 8% interest.

Held: Para 14 & 17

Thus, retiral benefits are not bounty but a right earned by the employer and being deferred wages payable to a Government servant in lieu of considerable length of service rendered by an employee to the employer cannot be denied on the ground of financial scarcity or lack of funds.

Once on a particular legal aspect dealing with service condition of the employees, the matter is decided by a Court of law, such body is expected to implement the same without forcing its all the employees similarly placed to approach the Court individually as that would amount not only to multiply litigation wasting avoidable public time and money but would also be against all spirit of a 'Welfare State' with which the respondents are expected to work.

Case law discussed:

1996 (2) ESC-612, 1983 (1) SCC-305, AIR 2003 SC-2189, AIR 1983 SC-803, AIR 1958 SC-578, AIR 1963 SC-1332, 2003 (1) SCC-184, W.P. 33804/04 decided on 6.12.05.

(Delivered by Hon'ble Sudhir Agarwal, J.)

1. A harassed widow, who has already suffered on account of death of her husband, having met an indifferent treatment in the hands of the respondents with respect to payment of post death retiral benefits of her husband/family pension, has invoked extraordinary equitable jurisdiction of this Court under Article 226 of the Constitution of India by means of the present writ petition seeking a writ of mandamus commanding respondents 2 and 3 to determine revised family pension and pay difference thereof since 4.3.1991 till date and pay her along with arrears.

2. The facts in brief, giving rise to the present writ petition are that the petitioner's husband Late Rajjab Ali was appointed as Revenue Inspector in Nagar Nigam, Allahabad and after rendering service of more than 30 years, died on 3.3.1991. The respondents determined family pension at Rs.480/- per month and started payment thereof in July 1991 though with effect from 4.3.1991. A Division Bench of this Court vide judgment dated 24.3.1988 passed in Civil Misc. Writ Petition No. 15309 of 1984 Moti Lal Agarwal & others Vs. State of U.P. & others directed Allahabad Nagar Mahapalika to pay similar amount of pension including dearness allowance and family pension etc. as admissible to the State Government's employee or the employees of Kanpur Nagar Mahapalika since 2.7.1981.

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