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**ALLAHABAD HIGH COURT (LUCKNOW BENCH)**

**GAYATRI DEVI — Appellant**

**Vs.**

**STATE OF U.P.& ORS. — Respondent**

( Before : S.N.Shukla, J )

Writ Petition No. 3473 (S/S) of 2001

Decided on : 08-03-2006

**A. Pension and Gratuity — Retiral Benefits — Delay in Payment — Interest and Compensation — Deceased government employee's widow sought payment of salary arrears, family pension, GPF, GIS, and other retiral benefits with interest — Retiral benefits were significantly delayed (over 20 years) despite previous court orders — Court had previously directed payment and an inquiry into responsibility for delay, while reserving the question of interest — Respondents failed to provide a justifiable reason for the delay — Held, retiral benefits are not a bounty but a valuable right protected under Articles 19(1)(f) and 31(1) (now 300A) of the Constitution — Inordinate delay in payment warrants interest and compensation.**

**B. Constitution of India, 1950 — Articles 19(1)(f) and 31(1) (now 300A) — Right to Property — Pension and Retiral Benefits — The right to receive pension is a fundamental and valuable right, constituting "property" under these constitutional provisions — Denial or withholding of pension, even by executive order, affects this fundamental right — Delay in payment without justification is a violation of this right.**

**C. Malaise — Inordinate Delay by Government Authorities — Compensation — Due to the inordinate and unjustified delay in disbursing retiral benefits, compelling the petitioner to repeatedly seek redress,**

**compensation in addition to interest is warranted for the suffering caused — Specific assessment of compensation at Rs. 5,000/- (in addition to 12% interest per annum) was made, payable within two months.**

#### JUDGMENT

Shri Narayan Shukla, J.—Heard Mr. Brijesh Kumar Verma, learned Counsel for the petitioner and the learned standing Counsel for the opposite parties.

2. By means of this writ petition, the petitioner has prayed for a writ of mandamus commanding the opposite parties to pay the salary and arrears of salary. Family pension, G.P.F., G.I.S. and other retiral benefits of service to the petitioner with interest @ 18% per annum forthwith till the date of actual payment to the petitioner.

3. Briefly stated the facts of the case are that the petitioner's husband Keshav Das, who was consolidation Lekhpal in District Sitapur died on 591973. After his death the petitioner prayed the respondents for payment of retiral benefits, but the respondents paid no heed and even after a lapse of 20 years she could not get retiral benefits. This Court vide its order 2672001 directed the respondent to pay the retiral benefits and other benefits to which the petitioner is found entitled, shall be made to her within a period of one month. This Court also directed the Consolidation Commissioner who was present on that date, to hold an enquiry into the matter and fix responsibility upon the erring officials. It was further observed that the question of payment of interest at the rate of 12% per annum from the date when the amount became due till the actual payment is made, would also be considered on the next date. In compliance of that order, payment of Rs. 502.65 as arrears of salary was made to the petitioner on 1152001 and paid all other dues, amounting to Rs. 1,81,092/ on 1392001. Counter and rejoinder affidavits have been exchanged. No justifiable cause for delay in making payment could have been shown by the respondents through the counteraffidavit.

4. Now the petitioner has moved an application dated 632006 for directing the respondents to grant adequate compensation for inordinate delay in making payment of retiral benefits and to pay interest @ 18%. In this regard, the learned Counsel for the petitioner has placed reliance on the decisions rendered in the case of Sushila Bhatnagar v. State of U.P. & Ors., 1999(1) LBESR 362 (All) : 1998 (3) ESC page 1992 (All.); Dr. Uma Agrawal v. State of U.P. & Ors., 1999(1) LBESR 1015 (SC) : AIR 1999 SC 1212; Krishna Mohan Verma v. State of U.P. & Ors., decided by this Court on 5122005 in writ petition No. 6950 (S/S) of 2003. It has been held by the Apex Court in Sushila Bhatnagar (supra):

Retirement benefits is not a bounty payable on the sweetwill and pleasure of the Government and that, on the other hand, the right to pension is a valuable right vesting in a Government servant. The right of the person to receive pension is property under Article 31(1) and by a mere executive order the State had no power to withhold the same.

Similarly the said claim is also property under Article 19(1)(f) and it is not saved by sub Article (5) of Article 19. Therefore, denial of right to receive pension affects the fundamental right of the person under Article 19 (1) (f) and 31(1) of the Constitution.

.....the arrears of retiral benefits as are admissible with the petitioner but not already paid, shall be paid to her within the same period together with interest @ 18% per annum. In view of inordinate delay and indifference shown the respondents shall compensate to the petitioner. for her suffering. Such compensation is assessed at Rs. 50,000/.

5. In the light of the above observations of the Apex Court as well as of this Court, the petitioner is entitled to get interest at the rate of 12% per annum from the date of retirement till the actual payment made and is also entitled to get Rs. 5,000/ as compensation for making the petitioner to run from pillar to post for retiral benefits without any justifiable cause. The amount of interest and compensation shall be paid to the petitioner within a period of two months from the date a certified Copy of this order is produced before the authority concerned.

6. With these observations and directions, the writ petition is disposed of finally.