

Delhi High Court

Om Parkash vs Food Corporation Of India on 19 November, 1999

Equivalent citations: 2000 IAD Delhi 694, 82 (1999) DLT 946

Author: A Sikri

Bench: A Sikri

ORDER A.K. Sikri, J.

1. Petitioner has filed this writ petition praying for release of retiral dues which were not released to him after his retirement w.e.f. 30th November, 1997 (A.N.). During the pendency of this petition the respondents released all the retirement dues of the petitioner vide cheque dated 28th August, 1998 alongwith interest calculated w.e.f. 1st December, 1997 to 31st July, 1998.

2. Learned counsel for the petitioner states that petitioner has two grievances, namely: (i) interest to be paid upto 28th August, 1998 and therefore interest for a further period of 28 days of August 1998 is yet to be paid to him and (ii) petitioner's gratuity is paid on the basis of services rendered with the respondent - Food Corporation of India. However, while calculating gratuity the services period rendered by him with Delhi Administration w.e.f. 15th November, 1968 to 12th February, 1974 was not included although there has been no break in service.

3. Insofar as payment of interest is concerned, although in the counter affidavit respondents have explained the delay which occurred in releasing the retirement dues of the petitioner, yet the respondents have paid interest w.e.f. 1st December, 1997 till 31st July, 1998. Since petitioner has been granted interest for substantial period no further interest need be paid.

4. However, there is a substance in the second grievance made by the petitioner. As per Food Corporation of India (Death cum retirement Gratuity) Rules, 1967 the services rendered by the petitioner in Delhi Administration is to be counted towards qualifying service in the respondent Corporation for the purpose of gratuity. It is clear from Explanation (2) to Rule 4 which reads as under:-

Explanation 2:

Service rendered in the Govt. or any Public or Private Undertaking by an employee before his joining service of the Corporation may be declared by the Managing Director to be deemed, in whole or in part, to be qualifying service in the Corporation provided that there was no break in service before joining the Corporation.

5. Petitioner had served in Delhi Administration from 15th November, 1968 till 12th February, 1974 and on the very next date i.e. 13th February, 1974 he joined the respondent - Corporation. Thus, there is no break in service. Infact after the petitioner had joined the services of the respondent Zonal Office of Food Corporation of India had written letter dated 6th February, 1989, to the Manager, Food Corporation of India, Head Quart - New Delhi forwarding an application of the petitioner for counting the service rendered by him in Delhi Administration. This position is not disputed by the learned counsel for the respondent who states that necessary enquiries are being

made from the office of Delhi Administration and on receipt of clarification gratuity would be paid counting this period. Such an enquiry if at all could have been made immediately after the petitioner had submitted his application way back in the year 1989. In any case this matter cannot be kept pending for this reason. It is case of the petitioner that while in service of the Delhi Administration, he had applied for job with respondent - Food Corporation of India through proper channel and therefore Food Corporation of India has the knowledge about petitioner having served Delhi Administration. This writ petition is accordingly disposed of with the direction to the respondent to include the period of service rendered by the petitioner with Delhi Administration towards qualifying period and work out the gratuity payable to the petitioner and as admissible under the Rules and pay the difference of gratuity so worked out within two months from the date of receipt of copy of this order. If the respondent still wants to make any enquiries from the office of Delhi Administration then this process be completed within the period of two months and necessary clarification, if needed, be obtained.

6. No order as to costs.