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## **KARNATAKA HIGH COURT ON PAYMENT OF PENSION**

### **1. Case Facts:**

- a. In the case of *K.T. Thimmaiah Vs. General Manager, Admin and HRD, KPTCL and Ors.*,<sup>1</sup> the petitioner, K.T. Thimmaiah (“**KTT**”) was an employee of the respondent, Karnataka Power Transmission Corporation Limited (“**KPTCL**”).
- b. **KTT** worked as storekeeper. **KPTCL** terminated his services alleging he committed theft. However, he was terminated without any enquiry.
- c. **KTT** challenged the termination before the High Court of Karnataka (“**HC**”) by way of a writ petition. The HC allowed this petition and allowed **KPTCL** to hold a fresh inquiry<sup>2</sup>. Meanwhile, **KTT** retired on reaching the age of superannuation.<sup>3</sup>
- d. The entire terminal benefits of **KTT** were withheld by **KPTCL**, which was challenged by him and the HC observed that the forfeiture of pension by **KPTCL** was unsustainable<sup>4</sup>. However, **KPTCL** did not comply with the order.
- e. **KPTCL** eventually dropped the disciplinary proceedings against **KTT** and directed by way of an official memorandum<sup>5</sup> that **KTT** is entitled to pension.
- f. Despite this, his terminal benefits were not released though it was 21 years since he was entitled to the benefits.<sup>6</sup>

### **2. Decision and Reasoning by HC:**

- a. **KPTCL** was not justified in withholding the release of the terminal benefits of **KTT** which was his legitimate right. **KPTCL** procrastinated on the release of terminal benefits without any justification.
- b. **KPTCL** is a ‘state’<sup>7</sup> under the Constitution of India. Pension payable to an employee constitutes ‘property’<sup>8</sup> and constitutes a fundamental right to livelihood.<sup>9</sup>
- c. *“While it is true that even under the pension regulations as a disciplinary measure and on a proper finding the entire pension can be withheld, but this being a situation resulting in grave consequence on a retired employee,*

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<sup>1</sup> MANU/KA/4132/2020.

<sup>2</sup> On 20<sup>th</sup> January 2000.

<sup>3</sup> On 30<sup>th</sup> June 1999.

<sup>4</sup> On 25<sup>th</sup> March 2011.

<sup>5</sup> On 2<sup>nd</sup> May 2015.

<sup>6</sup> On 25<sup>th</sup> July 2017, the Petitioner made a representation that he is 77 years old and is yet to receive his terminal benefits.

<sup>7</sup> Under Article 12.

<sup>8</sup> Under Article 300-A.

<sup>9</sup> Under Article 21.

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*due procedure should be followed and should be adhered to by the respondents. In a matter of this nature, procedural safeguard cannot be either given a go by or belittled,”* the HC held.

- d. The HC ordered KPTCL to release all the benefits to KTT along with nine percentage (9%) interest from the date it fell due.<sup>10</sup> The HC also imposed costs of Rs 50,000 on KPTCL.
- e. The HC held that deprivation of even a part of the pension is unacceptable as pension “*is neither a bounty, charity (n) or a gratuitous payment but an indefeasible right of an employee.*”

### **CONCLUSION**

In this case, the HC has upheld the importance of pension, which is a right of every employee that an employer is bound to pay without delay.

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<sup>10</sup> 1<sup>st</sup> August 1999.  
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