SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Fekni Devi Vs. State of Jharkhand and Ors

Fekni Devi Vs. State of Jharkhand and Ors

SooperKanoon Citation : sooperkanoon.com/111013

Court : Jharkhand

Decided On : Sep-13-2017

Appellant : Fekni Devi

Respondent : State of Jharkhand and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 5946 of 2009 Fekni Devi widow of Late Digamber Rajwar, resident of Village Chakulia, Tola Murtitand, PO Kashijharia, P.S.Pindrajora, District Bokaro. .... Petitioner Versus 1. The State of Jharkhand.

2. Deputy Commissioner, Bokaro.

3. District Superintendent of Education, Bokaro.

4. Block Education Extension Officer, Chandankiary, Bokaro.

5. Head Master, Primary School, Manchatand, P.S. Chandankiary, District-Bokaro. 6.District Provident Fund Officer, Bokaro. .... Respondents --- CORAM : HON'BLE MR. JUSTICE PRAMATH PATNAIK --- For the Petitioners : Mr. N.K. Sahani, Adv. For the Respondents : Mr. Ravi Kerketta, J.C. to S.C (L &C) . CAV on 27/04/2017 Pronounced on 13/09/2017 Per Pramath Patnaik, J.

In the accompanied writ application, the petitioner has sought for direction upon the respondents to pay forthwith the death-cum-retirement benefits including

G.P.F, Family Pension, Gratuity etc. and other admissible arrear salary and subsistence allowance along with interest @ 12% per annum from the date of dues till actual payment.

2. The brief facts, as averred in the writ petition, is that the deceased husband of the petitioner was appointed as Assistant Teacher and posted at Primary School, Manchatand, in the district of Bokaro. While continuing as such, he was entangled in Pindrajora P.S. Case No.27 of 1997 dated 25.03.1997 under Section 302/34 I.P.C and was taken in custody on 30.05.1997. Vide order dated 03.02.1998 the deceased husband of the petitioner was suspended and a departmental proceeding was initiated vide memo dated 03.02.1998. In the criminal case, the deceased husband of the petitioner was convicted vide judgment dated 07.12.2000 by the learned Additional Sessions Judge, 1st, Bokaro in S.T. No.124 of 1998 and has been sentenced to undergo R.I for life. Against the said judgment and order of sentence the husband of the petitioner preferred appeal before this Court which has been registered as Cr. Appeal (DB) No.6 of 2001. During 2 pendency of the appeal the husband of the petitioner died on 10.09.2003 while he was in custody and accordingly Cr. Appeal (DB) No.6 of 2001 has stood abated against him vide order dated 02.12.2003. Subsequently, vide judgment dated 28.11.2006 passed in the said appeal with regard to other appellant, this Court has been pleased to set aside the conviction under Section 302/34 IPC and has been pleased to convict them under Section 304 Part II/34 IPC and sentenced them to the period already undergone. The petitioner informed the respondent no.3 regarding the death of her husband and requested for payment of admissible post retirement benefits vide letter dated 28.09.2005 vide Annexure-2 to the writ petition. Vide memo dated 25.06.2008 the Group Insurance of Rs.61,848/- has been paid to the petitioner. Thereafter, the petitioner submitted several representations to the respondents and lastly on 22.06.2009 the petitioner submitted representation vide Annexure-4 to the writ petition for other retiral benefits but no steps has been taken. Being aggrieved by action of the respondents, the petitioner left with no other alternative remedy has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for redressal of her grievances.

3. Learned counsel for the petitioner has vehemently submitted that not paying the post retirement benefits has led to the petitioner insurmountable financial difficulties and the action of the respondent in not releasing the post retirement benefit is in violation of Article 14, 19(1)(g), 21 and 300 A of the Constitution of India.

4. Controverting the averments made in the writ application, counter affidavit has been filed on behalf of the respondent no.3- District Superintendent of Education, Bokaro wherein it has been submitted that the husband of the petitioner late Digamber Rajwar was implicated in Pindrajora P.S. Case No.27 of 1997 and subsequently he was apprehended and taken into judicial custody and as such under State Service Code he was suspended and a departmental proceeding was initiated. The husband of the petitioner late Digamber Rajwar was convicted by the learned Additional Session Judge, 1st, Bokaro in S.T. No.24 of 1998 under Section 302/34 of the IPC and sentenced him to undergo R.I for life, which led to dismissal of the husband of the petitioner. The District Education Establishment Committee, Bokaro in its meeting dated 27.12.2005 vide resolution no.6 decided to make payment of 3 Group Insurance and General Provident Fund and other retiral benefits as per Annexure-A to the counter affidavit.

5. A supplementary affidavit dated 21.04.2017 has been filed by the petitioner wherein it has been submitted that the departmental proceeding which was initiated against the deceased husband of the petitioner never attained its finality.

6. After hearing learned counsel for the respective parties and on perusal of the records, I am of the considered view that the admissible dues such as G.P.F and Group Insurance accrued in the name of the late husband of the petitioner has already been paid to the petitioner and no other post retiral benefits is admissible to the petitioner since the husband of the petitioner was dismissed from service pursuant to the decision of the District Education Establishment Committee, Bokaro. In view of his conviction passed in S.T. No.24 of 1998 under Section 302/34 of the IPC wherein the husband of the petitioner has been sentenced to undergo R.I for life as evident from the writ application and during pendency of the Cr. Appeal (DB) No.6 of 2001 the husband of the petitioner died on 10.09.2003 the

said criminal appeal stood abated vide order dated 02.12.2003. There is also specific bar under the Jharkhand Pension Rule for grant of pension to an employee who is convicted in a serious crime or is guilty of grave misconduct. However, the petitioner is entitled to the admissible arrear and salary, if any, of her late husband.

7. In that view of the matter, this Court is not inclined to accede the prayer of the petitioner so far as post retirement benefit of her late husband Digamber Rajwar is concerned. However, the respondents are directed to pay the admissible arrears of salary, if any, within a period of 8 weeks from the date of receipt/communication of the order.

8. With the aforesaid direction, the writ petition stands disposed of. (Pramath Patnaik, J.) Saket/-

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com