

Shakuntala Devi Vs. the State of Bihar and ors.

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Court : Patna

Decided On : Jul-23-2007

Judge : Mihir Kumar Jha, J.

Appellant : Shakuntala Devi

Respondent : The State of Bihar and ors.

Prior history : Mihir Kumar Jha, J. 1. In this writ petition the original writ petitioner late Radhey Shyam Singh had prayed for payment of pension, gratuity, G.P.F., group insurance, leave encashment, commutation of pension and salary for the period of suspension as also for the month of February, 1998. During the pendency of this writ application, the original writ petitioner late Radhey Shyam Singh had died and has been substituted by his wife Smt. Shakuntala Devi. 2. It is admitted at the Bar that during

Judgement :

Mihir Kumar Jha, J.

1. In this writ petition the original writ petitioner late Radhey Shyam Singh had prayed for payment of pension, gratuity, G.P.F., group insurance, leave encashment, commutation of pension and salary for the period of suspension as also for the month of February, 1998. During the pendency of this writ application, the original writ petitioner late Radhey Shyam Singh had died and has been substituted by his wife Smt. Shakuntala Devi.

2. It is admitted at the Bar that during the pendency of the writ application almost entire retirement benefit payable to the original writ petitioner has been paid and now his grievance remained confined to:- (a) leave encashment (b) salary for the period of suspension i.e. from 14.6.1993 to 20.12.1993 (c) salary for the last month of his working i.e. February, 1998 and (d) annual increments for the period from July, 1995 to February, 1998.

3. As with regard to leave encashment it is apparent from the supplementary counter-affidavit filed by the Director Agriculture Department that authority slip for leave encashment has been issued to the petitioner by the concerned department. In fact it is also borne out from annexure-18 to the supplementary affidavit filed by the petitioner that the Block Development Officer, Bihta, Patna has been informed by the Finance Department vide letter No. 602A dated 2.6.2003 that the petitioner is entitled for leave encashment of 240 days and has to be paid Rs. 99,276/-. In that view of the matter, the authority concerned shall verify as to whether the petitioner, being legal heir and representative of the original writ petitioner late Radhey Shayam Singh, has been paid the amount of leave encashment or not. In case the actual payment has not been made till today, the authority concerned shall be under obligation to pay the same to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

4. The second grievance of the petitioner is with regard to the difference of salary of her husband beyond subsistence allowance for the period of suspension from 14.6.1993 to 20.12.1993. It is evident that as no order of punishment was passed against the original petitioner in any proceeding, he ought to have been paid his salary for the period of suspension from 14.6.1993 to 20.12.1993. If such salary has not yet been paid to the original petitioner, the same must be paid to the widow the petitioner, within the same period of three months from the date of receipt/production of a copy of this order.

5. The third grievance is with regard to 'payment of salary for the month of February, 1998. There is clear averment in paragraph-5 of the supplementary counter-affidavit to the effect that such amount of salary payable to the deceased has already been paid to his wife, the substituted writ petitioner. In that view of the

matter, the third grievance of the petitioner stands redressed.

6. The fourth and last grievance of the petitioner is with regard to payment of increment. I am afraid that in this proceeding relating to retirement benefit, the issue of admissibility of increment cannot be decided.

7. The petitioner however may approach the authority concerned and in case it is found that certain increments of the husband of the petitioner were admissible and payable in accordance with the provisions of Bihar Service Code and yet not paid to him, the authority concerned shall take a decision in this regard and in case, the same is found payable, they will also tender actual payment of the admissible amount on this score within a period of six months from the date of receipt/production of a copy of this order. In case, the husband of the petitioner is not found entitled for such payment of amount towards the increments as claimed by her, the concerned authority shall pass a reasoned order in the same period and should the petitioner be aggrieved on account of non-payment of increment, she will have the liberty to take appropriate action including filing of a fresh writ petition.

8. This writ application is disposed of in terms of the aforementioned observation and direction.