

Indu Devi Vs. The State of Jharkhand Through Finance Secretary Cum Commissioner Dept of Finance and Others

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Court : Jharkhand

Decided On : Apr-16-2015

Appellant : Indu Devi

Respondent : The State of Jharkhand Through Finance Secretary Cum Commissioner Dept of Finance and Others

Advocate for Def. : Mr. Ramit Satender

Advocate for Pet/Ap. : Mr. Prabhash Kumar

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W. P. (S) No. 4778 of 2012
--- Indu Devi widow of Late Chandra Mauli Prasad Ex-Accountant, Saraikela-Kharaswan Treasury, resident of C/o Surya Mani Kumar, Sub-Divisional Office, Saraikela, District Saraikela-Kharaswan, Jharkhand and permanent resident of village and PO Cheron, Via Sarmera, PS Sarmera, District Nalanda (Bihar) Petitioner Versus 1.The State of Jharkhand through Finance Secretary cum Commissioner, Department of Finance, Govt. of Jharkhand, Ranchi 2.Treasury Officer, Saraikela-Kharsawan, Jharkhand 3.Bihar State Food and Civil Supplies Corporation Ltd. Sone Bhawan, 5th Floor, Virchand Patel Path, Patna - 800001 through its Chairman cum Managing Director 4.Legal Chief, Bihar State Food and Civil Supplies Corporation Ltd., Sone Bhawan, 5th Floor, Virchand Patel Path,

Patna - 800001 5.State of Bihar through Finance Commissioner, Department of Finance, Govt. of Bihar, Patna Respondents --- CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY --- For the Petitioner : Mr. Prabhash Kumar, Advocate For the Respondents-State : Mr. Pratuish Lala, J.C. to G.P. IV For the Respondent Nos. 3 & 4: Mr. Ramit Satender, Advocate --- 8/16.04.2015 Heard, Mr. Prabhash Kumar, learned counsel for the petitioner, Mr. Pratuish Lala, learned J.C. to G.P. IV and Mr. Ramit Satender, learned counsel for the respondent no.

3. 2. In this writ application, the prayer of the petitioner is for the direction upon the respondents to grant pay-scale in terms of the 5th Pay Revision Committee Report to her late husband w.e.f. 01.01.1996 to 03.07.2002 on the post of Accountant as well as to fix the pay of the petitioner's late husband and pay the difference of arrear of salary along with interest @ 10% per annum.

3. From the averments made in the writ application, it appears that the husband of the petitioner namely, Chandra Mauli Prasad was appointed by the respondent no. 3 and in course of his employment, he was promoted to the post of Accountant. Vide Memo No. 2068 dated 31.03.1997, he was relieved from Sasaram so as to enable him to join -2- at Koderma Treasury on the post of Accountant. It appears that vide Memo No. 1945 dated 22.06.2001, the late husband of the petitioner was transferred and posted at Saraikela Treasury. Unfortunately, the husband of the petitioner died in harness on 03.07.2002.

4. The learned counsel for the petitioner has submitted that the late husband of the petitioner was on deputation in Government Treasury, Koderma and Government Treasury Saraikela for the period between 31.03.1997 to 03.07.2002. He has further submitted that since the death cum retirement benefits has been withheld by the concerned respondents, petitioner has filed a writ application before the Hon'ble Patna High Court in C.W.J.C. No. 4680 of 2003 which was disposed of on 07.07.2005 in view of the fact that the retiral benefits have been paid to the petitioner during the pendency of the said writ application. The learned counsel for the petitioner submits that since the petitioner's husband was on deputation and was posted at Saraikela Treasury and was being paid salary by the Government, in such circumstances it is the respondent no. 1 who is the competent authority to

fix the pay-scale of the petitioner's husband as well as to release the difference of the arrears of salary. Learned counsel for the petitioner has drawn the attention of the Court to the office order vide Memo No. 6185 dated 17.08.2007 in which at Clause 2 it was indicated that the employees of the Corporation who have been posted on deputation have to be paid the arrears of salary by the District Administration. It has also been submitted that the petitioner has filed a representation before the Treasury Officer, Saraikela-Kharsawan, but the same has not yet been considered and disposed of.

5. Mr. Ramit Satender, learned counsel appearing on behalf of the respondent nos. 3 & 4 submitted that on deputation of the husband of the petitioner salary was being paid by the State Government and not by the Corporation, and in such circumstances it is for the State of Jharkhand to decide on the claim of the petitioner.

6. Mr. Pratuish Lala, learned J.C. to G.P. IV while relying on the counter affidavit filed on behalf of the respondent no. 1 has submitted that the husband of the petitioner was an employee of the State Food and Civil Supplies Corporation and the employees of various Corporations who were on deputation in various Treasuries are guided by the service conditions of their respective Corporations. It has thus -3- been submitted that the husband of the petitioner was an employee of the respondent no. 3 and was guided by the service conditions of the Corporations for its employees. In such circumstances, the State of Jharkhand does not have any say with respect to the payment of arrears of salary arising out of 5th pay revision.

7. The office order dated 17.08.2007 issued by the respondent no. 3 is with respect to sanctioning of arrears of salary from 01.01.1996 to 03.07.2002 stipulating certain conditions. One of the conditions has been mentioned in the said office order is that the arrears of salary of the employees of the Corporation who are on deputation is to be paid by the District Administration. The counter affidavit of the State of Jharkhand at paragraph 16 has clarified the fact that the employees of the Corporation have been paid their salary on the basis of the recommendation of the 5th pay revision. This statement would indicate that it is

the respondent no. 1 who is the competent authority to consider the case of the petitioner with respect to payment of arrears of salary in terms of the 5th pay revision.

8. In such circumstances, the petitioner is at liberty to file a fresh representation before the respondent no. 1 - Finance Secretary cum Commissioner, Department of Finance, Govt. of Jharkhand, Ranchi within a period of 3 weeks and if such representation is filed, the Finance Secretary cum Commissioner, Department of Finance, Jharkhand, Ranchi shall either decide the claim himself or shall authorise a competent person to decide the claim of the petitioner and pass a reasoned order thereto within a period of 6 weeks from the date of filing of the representation. If the claim of the petitioner is found to be genuine, the legally payable and admissible dues shall be made available to the petitioner within a period of 8 weeks from the date of disposal of the representation.

9. This writ application stands disposed of. (Rongon Mukhopadhyay, J) R. Shekhar Cp 2

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