

Manoj Kumar Vs. the Central Coalfields Ltd. and ors.

Manoj Kumar Vs. the Central Coalfields Ltd. and ors.

SooperKanoon Citation : sooperkanoon.com/515632

Court : Jharkhand

Decided On : Jan-27-2009

Reported in : [2009(1)JCR617(Jhr)]

Judge : D.G.R. Patnaik, J.

Appellant : Manoj Kumar

Respondent : The Central Coalfields Ltd. and ors.

Judgement :

ORDER

D.G.R. Patnaik, J.

1. Petitioner in this writ application has prayed for a direction commanding upon the respondents to pay to the petitioner the retiral benefits including gratuity, pension and C.M.P.F. benefits together with interest calculated @ 12% per annum from the date when the amount became payable.

2. The petitioner's case is that his mother Late Pairo Kamin was employed under the respondent C.C.L. and she had died on 19.12.2002. Upon her death, the petitioner had submitted the death certificate of deceased employee along with his application claiming payment of the retiral benefits on the ground that he happens to be the son and legal heir and successor to the estate of the deceased employee.

Learned Counsel for the petitioner would submit that pursuant to the petitioner's claim, the respondent had released the amount of gratuity in favour of the petitioner which the petitioner has received. But apart from the amount of gratuity, the petitioner has not received any further payment on any other head either in the head of the provident fund account or pension account or in group insurance account of the deceased employee.

3. A counter-affidavit has been filed on behalf of the respondent C.C.L. stating therein that the payment could not be made to the petitioner on account of genuine and legitimate confusion created on the basis of the entries in the service records of the deceased employee. Learned Counsel for the respondent C.C.L. explains that in the service records of the deceased employee, there are four different names of the husband of the petitioner's mother. In spite of the directions to the petitioner to clarify the situation as to whether apart from him, there is any other heir and claimant to the retiral benefits of the deceased employee, the petitioner has not come with any clarification up till now.

4. Learned Counsel for the respondent C.M.P.F. would submit that the respondent C.M.P.F. has also sought for further information clarifying the stand regarding the exclusive claim of the petitioner to the retiral benefits of the deceased and also as to whether there is any other claimant claiming himself as the husband of the deceased employee and since no information has been received as yet, the amount of provident fund in the provident fund account of the deceased could not be released as yet.

5. From the rival submissions, it appears that admittedly the respondent C.C.L. had accepted and acknowledged the petitioner to be the son of the deceased employee and a legal heir and successor to the estate of the deceased employee. Furthermore, admittedly, except the present petitioner, no other person has come forward before the respondent C.C.L. staking his claim for the retiral benefits of the deceased. Having acknowledged the petitioner as being legally entitled, the respondents have already released the payment of gratuity to the petitioner which was payable in the account of the deceased employee. Merely because of certain additional names of the husband of the deceased employee appearing in her

service records, the respondents cannot take a plea that they are confused because of the different names of the husband of the deceased. Admittedly there is no confusion as far as the entitlement of the petitioner on account of his being son and legal heir and successor of the deceased employee. As such there can be no legal justification on the part of the respondents to deny the payment of retiral benefits to the petitioner. The respondents may at best be at liberty to obtain all necessary undertaking from the petitioner by way of indemnity if at all they have a genuine apprehension that some other claimant would come forward on the ground of his being one of the legal heirs and successor of the deceased employee.

6. Considering the facts and circumstances, the respondent C.C.L. is directed to issue within one month from the date of this order necessary instructions to the respondent C.M.P.F. for release of the provident fund amount payable in the account of the deceased employee to the petitioner and within one month from the date of receipt of such information the respondent C.M.P.F. shall release the payment due, to the petitioner. The respondent C.C.L. is further directed to fix the pension amount and take necessary measures to release the amount of pension to the petitioner. The respondent C.C.L. shall also provide necessary instruction and details of information to the respondent No. 6 to fix the payable pension amount. The respondent C.C.L. shall also release the payable group insurance to the petitioner. Such payments to the petitioner may be made after obtaining all requisite undertaking from the petitioner by way of indemnity in respect of the payment made.

With these observations, this writ application is disposed of.

Let a copy of this order be given to the learned Counsel for the respondents.

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