Ram Dulari Devi Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Mar-26-2003

Reported in : [2003(3)JCR693(Jhr)]

Judge : M.Y. Eqbal, J.

Acts : Constitution of India - Article 226

Appeal No. : WPC No. 2754 of 2002

Appellant : Ram Dulari Devi

Respondent : State of Jharkhand and ors.

Advocate for Def. : P.P.N. Roy, SC (EPF)

Advocate for Pet/Ap. : J. Mazumdar and; D.K. Karmakar, Advs.

Disposition : Petition allowed

Judgement :
ORDER

M.Y. Eqbal, J.

In this writ application the petitioner has prayed for quashing the order as contained in letter dated 8.12.2002 issued by respondent No. 2, Assistant Provident Fund Commissioner whereby he has rejected the claim of the petitioner for payment of the benefits under the Employees Provident Fund Scheme.

2. Petitioner's husband was in the service of the respondent- Tin Plate Company of India Limited, Jamshedpur. In 1986 petitioner's husband became the member of the Employees Provident Fund Organisation and he had been regularly making payment of the required amount till February, 1999. The deceased had filled up the declaration form in 1968 and in the date of birth column he himself wrote the year of birth as 1947. According to the petitioner that year of the birth of the deceased husband of the petitioner was treated as the age of the deceased. Petitioner's husband retired from service on 16.2.1999 and died on 7.2.2000 leaving behind the petitioner as the widow and three sons. After his death the petitioner approached the concerned respondents for grant of pension under the Employees Provident Fund Scheme and in this regard letter was sent to the Regional Provident Fund Commissioner. Respondent No. 2, by letter dated 30.6.2000 asked the Tin Plate Company for clarification as to whether the deceased already crossed 60 years before implementation of EPF, 1995. The Tin Plate Company, by several letters, informed the. Regional Provident Fund Commissioner that the year of birth of the deceased was 1947 and it is not a fact that he was 47 years old at the time of submission of the declaration form. Inspite of all these clarification respondent No. 2 refused to grant the benefit of the Scheme to the petitioner-widow of the deceased.

3. I have heard Mrs. J. Mazumdar, learned counsel appearing for the petitioner and Mr. P.P.N. Roy. learned counsel for the respondent-authority as also the counsel appearing for the Tin Plate Company.

4. Mr. P.P.N. Roy. learned counsel mainly contended that the petitioner approached the authority for pension at a very belated stage and in view of the age mentioned in the declaration form the deceased employee crossed 60 years before implementation of the Scheme of 1995. Hence the petitioner is not entitled to pension.

5. From perusal of Annexure-1 which is the declaration form submitted by the deceased husband of the petitioner it appears that in the date of birth column the date and month was not filled up but the year of birth has been shown as 1947. In

the consolidated return of the employees submitted by the Tin Plate Company showing the members of the Scheme, the year of birth of the deceased was shown as 1947. Not only that the employer of the deceased employee, namely, the Tin Plate Company, by several letters, clarified that the year of birth of the deceased was 1947 and it is not a fact that in 1968 the age of the deceased was 47 years. It transpires from Annexure-7 that the Tin Plate Company, vide letter dated 16.11.2000 sent the photocopy of the service records of the deceased employee in order to show that his year of birth was recorded as 1947. Curiously enough, in-spite of all these documents and clarifications made by the Tin Plate Company, the concerned authority of the respondent illegally and arbitrarily rejected the claim of the petitioner. The decision of the authority appears to be wholly arbitrary, whimsical and mala fide.

6. For the aforesaid reason this writ application is allowed and the impugned letters issued by the Regional Provident Fund Commissioner are quashed. It is declared that the petitioner who is the widow of the deceased employee, is entitled to pension and other benefits under the Employees Provident Fund Scheme. The concerned respondents are, therefore, directed to grant the said benefits as expeditiously aspossible and preferably within a period of thirty days from the date of production of acopy of this order.