

Most. Jank Devi Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Jul-16-2003

Reported in : [2004(1)JCR220(Jhr)]

Judge : S.J. Mukhopadhaya, J.

Acts : Services Law; [Constitution of India](#) - Article 226

Appeal No. : W.P. (S) No. 2204 of 2003

Appellant : Most. Jank Devi

Respondent : State of Jharkhand and ors.

Advocate for Def. : M.K. Laik and; S. Shrivastava, Advs.

Advocate for Pet/Ap. : A. Allam and; N. Sharmin, Advs. for State of Bihar; Anja

Disposition : Petition allowed

Judgement :

ORDER

S.J. Mukhopadhaya, J.

1. Heard the parties.

2. The husband of petitioner-late Premlal Bhagat was a Research Assistant under the State in its Road Construction Division, Godda, who retired on 31st of January, 2000 and later on died.

3. During his life time, Premlal Bhagat not having been provided with retiral benefits moved before this Court in W.P (S) 383 of 2002. In the said case, this Court vide order dated 16th January, 2002 remitted the matter for determination of claim by respondents at first instance with direction to the Executive Engineer, Road Construction Division, Godda, Jharkhand and A.G. Bihar & Jharkhand to finalise his pension and to pay the admitted dues within three months.

4. It is stated that the husband of petitioner forwarded the order of the Court but he has not been paid the benefits. Later on he died on 17th June, 2002 in I.G.I.M.S. Patna.

5. It appears that while the petitioner's husband was suffering from illness, the respondents issued impugned office order No. 3306, dated 6th April, 2002, whereby the first time-bound promotion given to the employee was cancelled and direction was issued to recover the amount.

6. According to A.G. Bihar and Jharkhand, it having not received any sanction order from the competent authority to pay the pensionary benefits could not issue the order for payment of pensionary benefits. A.G. has written letter No. Pension Cell-3/4-8, dated 2nd June, 2003 to the Executive Engineer, Road Construction Division, Godda.

7. In spite of time allowed, no separate counter affidavit has been filed by the other respondents including the State of Jharkhand or the State of Bihar.

8. From the impugned order dated 6th April, 2002 it will be evident that the time-bound promotion order was issued on 10th November, 1990. The employee was given benefits on such promotion and after his retirement certain objection was raised.

9. There is nothing on the record to suggest that the deceased employee, Premlal Bhagat mis-represented to get the benefits of time-bound promotion. In this

background and in view of decision of Supreme Court in case of Sahib Ram v. State of Haryana reported in 1995 Suppl. (1) SCC 18, the respondent are directed not to recover any amount from the pensionary benefits to which the deceased employee was entitled or from the death benefits to which the widow is entitled. The order No. 3306, dated 6th April, 2002 is set aside and the case is remitted with direction to respondent to pay the petitioner death-cum-retiral benefits including the arrears of pension to which the deceased employee was entitled, family pension to which the widow is entitled, etc. with interest @ 5% per annum from the date of retirement of the employee in terms with order dated 16th January, 2002 passed by this Court in W.P. (S) No. 383 of 2002 within a period of three months from the date of receipt/production of a copy of this order, failing which the respondents will be liable to pay interest @ 8% per annum in place of 5% and a cost of Rs. 5000/-.

10. The writ petition is allowed with aforesaid observation and direction.

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