

Vimla Devi Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Feb-06-2004

Reported in : [2004(2)JCR83(Jhr)]

Judge : Amareshwar Sahay, J.

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

Appeal No. : CWJC No. 946 of 2001

Appellant : Vimla Devi

Respondent : State of Jharkhand and ors.

Advocate for Def. : M.K. Roy, Adv. and; I. Sen Chowdhury, S.C. II

Advocate for Pet/Ap. : C.S. Prasad, Adv.

Disposition : Application allowed

Judgement :

ORDER

Amareshwar Sahay, J.

1. This writ application is by the widow of late Uma Shankar Prasad who died in harness on 4.4.1999 while he was posted as Branch Manager in Central Cooperative Bank, Kuju (Hazaribagh), for a direction to the respondents for

payment of gratuity and leave encashment along with interest @ 18% per annum, which according to her, has not been paid by the respondents illegally inspite of the fact that she made several representation to the respondents but to no effect,

2. Mr. C.S. Prasad learned counsel for the petitioner has submitted that in view of the decision in the case of *Rebati Raman Kanth v. Chairman, Bihar State Electricity Board and Ors.*, reported in 2000(1) PLJR 192 and in the case of *Godawari Devi v. The State of Bihar and Ors.*, reported in 1997(1) PLJR 538 the petitioner is entitled to gratuity and leave encashment as legal due.

3. On the other hand Mr. M.K Roy learned counsel for the respondents on the basis of the averments made in the counter affidavit filed by the Managing Director, Central Cooperative Bank Limited, Hazari-bagh has submitted that from the report of District Audit Officer which was published on 8.11.2000 some defalcation was detected against the late husband of the petitioner and the District Audit Officer had recommended for prosecution and therefore, retiral benefits of late husband of the petitioner has been withheld by the Bank.

4. A vague statement has been made in paragraphs 14 and 16 of the counter affidavit that the Award case being case No. 1 of 2002 was filed by the Bank for a sum of Rs. 2,87,621/- including interest up to 31.12.2001 before the Joint Registrar, Cooperative Society, North Chhotanagpur Division.

5. Nothing has been stated as to how the said award case is connected with the grievance of the petitioner. Nowhere it has been stated that in the award case the petitioner is a party. No document of any kind has been annexed with the Counter affidavit in support of the statements made therein.

6. Having heard the learned counsel for the parties and relying on the decision in the case of *Rebati Raman Kanth v. Chairman, Bihar State Electricity Board and Ors.*, reported in 2000(1) PLJR 192 and in the case of *Godawari Devi v. The State of Bihar and Ors.*, reported in 1997 (1) PLJR 538, I find that the respondents have illegally withheld the gratuity and leave encashment of the late husband of the petitioner which she is entitled to receive after death of her husband. I also find that widow has been deprived with the said amount for more than four years.

7. In view of my discussions and findings above this application is allowed. Respondents authorities are directed to pay gratuity and leave encashment amount legally payable to the petitioner within the period of two months from the date of receipt/production of a copy of this order. Since the petitioner has been sufficiently harassed at the hands of respondents and therefore, in my opinion, she is entitled to cost which is assessed at Rs. 2000/-. The amount of cost shall be paid to the petitioner along with the amount of gratuity and leave encashment within time specified above.

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