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Court : Jharkhand

Decided On : Jul-21-2015

Appellant : Hira Devi and Anr

Respondent : Central Coalfields Limited Represented Through Its Chairman Cum Managing Director and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 7831 of 2013 1. Hira Devi 2. Deepak Munda Petitioners. Versus 1. Central Coalfields Limited.

2. The General Manager (Personnel), C.C.L.

3. Director (Personnel), C.C.L.

4. The Project Officer, Khasmahal Project, C.C.L.

5. Senior Personnel Manager, Khasmahal Project, C.C.L.

6. Commissioner, Coal Mines Provident Fund, Office at Dhanbad.

Respondents. ----- CORAM : HON'BLE MR. JUSTICE APARESH KUMAR SINGH

----- For the Petitioner : M/s Prasshan Vidyarthi & Mritunjay Choudhary, For the

Respondent : M/s Ananda Sen , Advocate. ----- 03 / 21.07.2015: Heard counsel

for the parties. There are two reliefs prayed for by the petitioner; first prayer is relating to compassionate appointment of petitioner no.2, son of late Baijat Munda 2 Vijay Munda, who died in harness on 08.01.1991 while was working as driver Category-V at Khasmahal Project under the respondents Central Coalfields Limited. Second prayer is in relation to grant of death-cum-retiral benefits, gratuity with interest, life Cover Scheme at Present rate, Benevolent Fund with interest, Provident Fund and family pension and arrears of monetary benefit with interest in terms of N.C.W.A. Scheme. Petitioner no.1 is the widow of late employee, who claims that her name is present in the service book of the deceased employee along with the parents of the deceased and two daughters. the petitioner no.1 was also a nominee in the C.M.P.F. Account No. R/10-1528. Likewise the petitioners are nominees of deceased employees for receiving gratuity of the deceased employee, the husband of petitioner no.1. Initially petitioner no.1 made an application for her compassionate appointment. Thereafter the petitioner no.2, her son, had also made an application for compassionate appointment when he was informed by Annexure-1 that on completion of 18 years of age he may submit his application. Thereafter on 10.2.1999 proposal for compassionate appointment of petitioner no.2 has been declined vide Annexure-3 -2- issued by Deputy Personnel Manager (NP). The said letter, however, is not challenged by the petitioners in the present writ application. The petitioner no.1 thereafter insisted upon payment of death-cum-retiral benefits, gratuity with interest, life Cover Scheme at Present rate, Benevolent Fund with interest, Provident Fund and family pension and arrears of monetary benefit with interest through representation vide Annexure-5 dated 07.11.2004 and followed up in the year 2005-06 vide Annexures- 6 series. The respondents, however, sought for unnecessary details through communication dated 16.07.2013, 10.11.2013 (Annexure-10) asking for no claim certificate and Photostat copy of the Bank Account for processing the claim for payment of aforesaid death- cum-retiral benefits. Learned counsel for the petitioner submits that under N.C.W.A. Scheme the respondents should have paid monetary benefit to the petitioner no.1 if no appointment is offered to her, but this has also not been done . Therefore, the petitioners have approached this Court by filing the present writ petition. Learned counsel for the Central Coalfields Limited submits that the claim of the petitioners for compassionate appointment is grossly

delayed and the application of petitioner no.2 has been declined in the year 1999 itself, which requires no interference at this stage. In respect of claim for death-cum-retiral benefit, it is submitted that if the petitioner submits required papers/documents their claim shall be processed without any delay and admissible dues shall be paid under different head. Respondent C.M.P.F. by filing counter affidavit have stated that C.M.P.F. Account was in the name of different person which has been returned by letter dated 28.2.2014 Annexure-A. There are certain more discrepancy which are required to be removed by the Management for processing C.M.P.F. claim of the petitioner, in lieu of the deceased employee. Considering the factual aspects of the matter and submissions made by the parties, the claim for compassionate appointment made on behalf of the petitioner no.2 on the death of his father on 08.01.1991 at this stage is stale and cannot be entertained, when the order of rejection was passed on 11.02.1999, which has also not been challenged in the writ petition filed in the year 2013. Therefore, claim for compassionate -3- appointment is not entertained. So far claim for gratuity is concerned, it is appropriate to observe that the respondents C.C.L. and its authorities were also under statutory obligation to ensure payment of gratuity amount under the relevant provisions of the Payment of Gratuity Act, 1972 as per the nomination made by the deceased employee. Different pleas or documents which are being sought for in order to process the claim will not absolve the respondents CCL of statutory liability to pay the gratuity amount of the deceased employee to his nominee. Respondents CCL would take a decision on payment of the gratuity claim of the petitioner and make payment thereof within a period of 10 weeks along with statutory interest. So far claim for life Cover Scheme, C.M.P.F. amount and family pension are concerned, the respondents would take a decision on that in accordance with law within a period of 10 weeks from the receipt of a copy of this order along with detailed representation annexing the relevant document and paper on behalf of the petitioners. The admissible amount towards Life Cover Scheme should be paid thereafter without any unreasonable delay. If the claim of provident fund and family pension is found to be admissible by the respondents CCL, then necessary papers thereof be sent to the respondent no.6 thereafter without any delay so that the claim of C.M.P.F./ family pension amount may be processed and settled in favour of the lawful claimant as per the terms of the

C.M.P.F. Scheme. So far as the claim of monetary compensation is concerned, it does not appear from the documents that any such an application was made by the petitioner at any point of time after the death of the employee. She is, however, at liberty to make such a claim, which may be considered in accordance with law within the same time. This writ petition is, accordingly, disposed of in the manner indicated above. (APARESH KUMAR SINGH , J) Sharma/-

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