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**Sabita Devi Vs. Coal Mines Provident Organization Through Its Regional Commissioner and Ors**

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**SooperKanoon Citation** : sooperkanoon.com/69172

**Court** : Jharkhand

**Decided On :** Mar-01-2016

**Appellant** : Sabita Devi

**Respondent** : Coal Mines Provident Organization Through Its Regional Commissioner and Ors

**Advocate for Def.** : Mr. M.B. Lal

**Advocate for Pet/Ap.** : Mr. Nand Kishore Prasad Sinha

**Judgement** :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 2575 of 2015 Sabita Devi, wife of late Tufani Singh, resident of village Saunda 'D' Shakti Nagar Colony, P.O. Saunda 'D' P.S. Bhurkunda, District Hazaribagh now Ramgarh ... ... ... ... ... ... Petitioner. Versus 1. Coal Mines Provident Fund, Organization through its Regional Commissioner, Region-1, RIADA Bhawan, P.O. Lowadih, P.S. Namkum, District Ranchi.

2. M/s Central Coalfields Limited through its Chairman-cum-Managing Director, having its office at Darbhanga House, P.O. Darbhanga House, P.S. Kotwali, District Ranchi.

3. Director Personnel, CCL, At & P.O. Darbhanga House, P.S. Kotwali, District Ranchi.

4. General Manager (P & IR), CCL, At & P.O. Darbhanga House, P.S. Kotwali, District Ranchi.

5. The Chief General Manager (BRK-Syl) CCL, At & P.O. Sayal 'D' P.S. Patratu, District Hazaribgh now Ramgarh.

6. The Project Officer, CCL, Saunda 'D' Colliery, P.O. Saunda 'D', P.S. Bhurkunda, District Hazaribgh now Ramgarh.

7. The Manager Personnel, CCL Saunda 'D' Colliery, P.O. Saunda 'D', P.S. Bhurkunda, District Hazaribgh now Ramgarh..... ... Respondents. ------ CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY, ------ For the Petitioner : Mr. Nand Kishore Prasad Sinha, Advocate. For the Respondent no.1 : Mr. Prashant Vidyarthi, Advocate. For the CCL : Mr. M.B. Lal, Advocate. ------ 05 / 01.03.2016: Heard Mr. Nand Kishore Prasad Sinha, learned counsel for the petitioner, Mr. M.B. Lal learned counsel for the CCL and Mr. Prashant Vidyarthi, learned counsel for the Coal Mines Provident Organization. The petitioner in this writ application has challenged the letter dated 09.04.2015 issued by the respondent no.7 , by which the claim of the petitioner for refund of 1.16% and 2% deducted towards Family Pension amount and Pension amount has been rejected. A further prayer has been made to direct the respondents to refund the amount accrued out of the said deduction after quashing the letter dated 9.4.2015. The facts, in short, is that the husband of the petitioner was an employee of M/s Central Coalfields Limited and was posted Saunda 'D' Colliery in Store Department. He was granted voluntarily retirement under -2- Special Voluntarily Retirement Scheme in the year 1991 and subsequently died on 13.07.1992. According to the petitioner 1.16% towards contribution of the employee and employer were deducted in terms of the Coal Mines Family Pension Scheme 1971, but the said amount was never returned back to the petitioner. Mr. Nand Kishore Prasad Sinha, learned counsel for the petitioner has submitted that the deduction was made towards Coal Mines Family Pension Scheme from the salary of the husband of the petitioner , but the said deducted amount was never

returned back to the petitioner, for which the petitioner has submitted a representation, which was not considered by the authority and was rejected vide letter dated 09.04.2015. It has, thus, been submitted that the petitioner is entitled to the deducted amount towards family pension. Mr. M.B. Lal, learned counsel for the respondents- M/S CCL has submitted that the husband of the petitioner , namely, Tufani Singh had taken voluntarily retirement and after his death the petitioner was provided with employment with effect from 23.11.1991. Learned counsel submits that as per Coal Mines Pension Scheme 1971 the deduction amount @ 1.16% maximum of Rs. 19.00 was paid to the retired members along with the final settlement of the Coal Mines Provident Fund Scheme. Learned counsel further submits that subsequently Coal Mines Pension Scheme 1998 came into being, which was made applicable to all the members, who have retired or died on or after 01.04.1994. Learned counsel submits that in terms of the Coal Mines Pension Scheme, 1998, since the husband of the petitioner has taken voluntarily retirement in the year 1991 and died before cut-off date i.e. 01.04.1994, his case did not come within the purview of the said Scheme. It has further been submitted that if any deduction @ 2% under pension provision has been made from the salary of the deceased husband of the petitioner from 01.04.1989, the same shall be looked into and if the grievance is found to be genuine, the amount accrued towards the same shall be refunded back to the petitioner. Mr. Prashant Vidyarthi, learned counsel appearing for the Coal Mines Provident Fund Organization has submitted that the petitioner would have been entitled for pension, if the husband of the petitioner died during his service period, and that he has taken voluntarily retirement and subsequently died, the same could not be made applicable to the petitioner. However, -3- deduction @ 2% under pension provision has been made from the salary of the deceased husband of the petitioner from 01.04.1989, but the C.M.P.F. Organization does not have any control over the same as the same is between the Management and the concerned employee, in view of the Agreement entered into. The dispute with respect to 1.16% deduction towards Family Pension has not been substantially fortified by the petitioner. Reference has been made to the Coal Mines Scheme 1998, but it appears from the Scheme that same can be made applicable with effect from 01.04.1994 and since the husband of the petitioner had already taken

voluntarily retirement in the year 1991 and subsequently died in the year 1992, his case could not have come within the ambit of the said Scheme of 1998. The impugned order dated 09.04.2015 clearly states that during the period of 1991-92 there was no deduction @ 1.16% from the salary of the husband of the petitioner. Since the petitioner has failed to make out a case for interference in the impugned letter dated 09.04.2015 his claim for getting refund of the amount deducted towards family pension having not been substantiated, is hereby rejected. However, since it has been indicated in the counter affidavit filed by the respondents CCL that they shall look into the matter of deduction @ 2% from the salary of the deceased husband of the petitioner from 01.04.1989, the respondent no.6 shall consider such fact and if indeed any amount has been deducted @ 2% from 01.04.1989 from the salary of the deceased husband of the petitioner, in such circumstance the deducted amount should be refunded to the petitioner within a period of six weeks from the date of receipt/ production of a copy of this order. If in case, such claim is not found to be genuine or admissible the same shall be intimated to the petitioner within the aforesaid period. This writ application is disposed of in the aforesaid terms. ( RONGON MUKHOPADHYAY , J) Sharma/-

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