

Smt. Sita Devi Vs. State and ors

Smt. Sita Devi Vs. State and ors

SooperKanoon Citation : sooperkanoon.com/973766

Court : Rajasthan Jodhpur

Decided On : Aug-21-2012

Appellant : Smt. Sita Devi

Respondent : State and ors

Judgement :

1 S.B. CIVIL WRIT PETITION NO. 5898/2008 (Smt. Sita Devi Vs. State & Ors)
Date of Order ::

21. 08.2012 HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS Mr. Rajesh Joshi, for the petitioner. Mr. Hemant Choudhary, for the respondents. Heard learned counsel for the parties. In this writ petition, petitioner has prayed for direction to the respondents to pay entire retiral dues of her husband including amount of gratuity, privilege leave, G.P.F and benefits of revised pay-scale alongwith interest @ 18%. Admittedly, petitioner's husband was working in the office of respondent no.2 as Assistant Prcha Viterak cum Supervisor and died while in service on 22.07.05. Thereafter, repeatedly petitioner made prayer for finalisation of retiral benefits of her husband who was working on the post of Assistant Parcha Viterak cum Supervisor. It is submitted by learned counsel for the petitioner that during pendency of the writ petition, certain amount has been paid to the petitioner but still there is outstanding with interest for delayed payment of retiral benefits, therefore, respondents may be directed to finalise the case of the petitioner. After hearing learned counsel for the petitioner, I have perused the additional affidavit filed by the petitioner in which following assertion has been made :- 1. That I am

petitioner in the above noted case and am well acquainted with all the facts and 2 circumstances of the case.

2. That the petitioner has filed the above writ petition for granting retiral benefits of her husband late Shri Satyanarayan Sharma.

3. That the respondent authority has made payment of retiral benefit in the head of privilege leave amounting to Rs.52,598/- on 12.3.2009, but in the said head petitioner is entitled to get amount of Rs. 54,455/-, as such amount of Rs. 1857/- is remain due and the respondent authority has not given any interest on the said amount. The petitioner is also entitled to get interest on the said amount. The Petitioner is also entitled to get interest from 22.7.2005 to 12.3.2009 on the amount of Rs. 54,455/-.

4. That the respondent authority himself also admitted that the amount of arrears of benefit of revision of pay-scale is due till today. The said amount is Rs.92,244/- and interest on that amount is due from 22.7.2005.

5. That the amount of Provident Fund of Rs. 38,298/- has been received but the respondent authority has not paid interest on that amount from 22.7.2005 to 16.8.2009, as such, the petitioner is entitled to get interest on the said amount because the amount was due upon the respondent authority on 22.7.2005.

6. That the respondent authority has also made wrong calculation of gratuity amount. According to the petitioner, total gratuity amount is Rs. 2,03,280/- but the respondent authority has paid Rs. 1,50,000/- in the year 2005 and Rs. 46,350/- paid on 12.3.2009, as such, Rs. 6,930/- is due since 2005. The petitioner is also entitled for interest on Rs. 6,930/- from 2005 as well as interest on Rs. 46,350/- from 2005 to 12.3.2009.

7. That after perusal of back, it is clear that the respondent authority has not made full and final 3 amount of the retiral benefits of the petitioner. In my opinion, it is the duty of respondent department to finalise the retiral benefits as soon as the employee died or retired after attaining superannuation age but herein this case, petitioner's husband died on 22.07.05 but retiral benefits were not paid to the

petitioner in time, then she preferred this writ petition in year 2008. In view of the fact that during pendency of the writ petition, certain amount has been paid but entire amount has not been paid, therefore, this writ petition is disposed of with direction to the respondents to calculate all the dues of petitioner mentioned in the additional affidavit in accordance with law and after making fixation of pay as per revised pay scale, the entire amount of retiral benefits shall be paid to the petitioner, within a period of three months. It is further directed that petitioner shall be entitled for interest as per Section 89 of the Rajasthan Civil Services (Pension) Rules, 1996 for delayed payment. Therefore, amount of interest may also be calculated for delay in payment and same may also be paid alongwith other retiral benefits within a period of three months from the date of receipt of certified copy of this order. (GOPAL KRISHAN VYAS), J.

Bjsh

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com