(2023) 06 PAT CK 0022

In the Patna High Court

Case No : Letters Patent Appeal No. 475 Of 2023 In Civil Writ Jurisdiction Case No. 2937 Of 2020

Amalti Devi APPELLANT

Vs

Punjab National Bank RESPONDENT

Date of Decision : 24-06-2023

Acts Referred:

Citation : (2023) 06 PAT CK 0022

Hon'ble Judges : K. Vinod Chandran, CJ;Partha Sarthy, J

Bench : Division Bench

Advocate : Rajesh Kumar, Mritunjay Kumar, Vibhuti Kumar

Final Decision : Dismissed

Judgement

The appellant is the widow of an employee of the respondent Bank who seeks for family pension. The appellant was before the respondent Bank who was issued with Annexure- 6 which was challenged in the writ petition. The learned Single Judge found that the husband of the petitioner was only engaged as a part time sweeper/worker on the basis of requirement of work and he was not in the regular employment of the Bank. Subsequently, the Bank regularized his services on 01.05.2010 and within eleven months unfortunately the employee died. Accordingly, the death-cum-post retiral benefits payable to the petitioner is only to the extent of Rs. 43,860/- towards gratuity. There is no entitlement of family pension to the petitioner.

In fact, the respondent Bank stated this in the counter affidavit to the writ petition. Paragraphs 5 and 6 of the counter affidavit to the writ petition is extracted hereunder:-

“5. That before submitting reply on merits of the case, the answering respondents humbly submit the brief background leading to the present case as under:

i. That Answering bank is a Nationalized Bank having been nationalized by the

Central Government under the provisions of Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970. It is submitted that the service conditions of workmen employees are governed by Sastry Award, Desai Award and Bipartite Settlements as amended from time to time.

ii. That it was during these Bipartite Settlements, provision for engagement on part-time basis for doing works for upto 06 hours in a week was provided at a consolidated wage, as fixed by the Bipartite Settlements from time to time. It was during the Bipartite Settlement dated 31.10.1979, in para 14(i), it was laid down that: ".....the permanent Part-Time employees who are required by the bank to work for more than 06 hours a week will be eligible for Provident Fund and Gratuity." Further, in the Bipartite Settlement dated 10.04.1989, in para 19 (2), it was laid down that 'Part-Time employees not drawing scale wages shall be eligible for only fixed monthly payment made to them by the Bank." It was laid down in the Bipartite Settlement dated 27.04.2010, that "....with effect from 01.11.2007, Part-Time employees who are members of the subordinate staff on consolidated wages and whose normal working per week are 'upto 3 hours' and "more than 3 hours but less than 6 hours" shall be paid one third scale wages w.e.f. 1st May 2010." It was further laid down that from 01.11.2007 to 30.04.2010 they shall be paid consolidated wages at the rates mentioned therein and the employees recruited on or after 01.05.2010 in part-time scale wages shall be at minimum of one third scale wages. It is submitted the rate of consolidated wages increased from time to time, i.e., from Rs. 100/- fixed vide Bipartite Settlement dated 17.09.1984 to the rates of Rs. 1440/- p.m. (for more than 03 hours but less than 6 hours) as fixed vide Bipartite Settlement dated 27.04.2010.

iii. That it was within the provisions of these Bipartite Settlements that the services of Late Shri Mahendra Singh were utilized by the Bank on Part-Time basis at a consolidated wages as determined from time to time by the Bank. Later, in lines to the Bipartite Settlement dated 27.04.2010, he was absorbed in the Bank on its rolls in Part- Time scale wages on 01.05.2010 and accordingly was eligible for benefits of service w.e.f. from 01.05.2010 and not earlier. His Basic Pay was Rs. 1950/-. As per the provisions of HRD Circle 629 i.e. 9th Bipartite settlement petitioner's husband was eligible to receive emoluments of PTS on 1/3rd Scale wage w.e.f. 01.05.2010. The consolidated wages till his absorption in Bank on regular basis was fully paid to Late Shri Mahendra Singh for the services given by him to the Bank. Late Shri Mahendra Singh was first engaged as Part Time Sweeper w.e.f. 13.09.1985 on consolidated wages of Rs. 100/- which was later revised to Rs. 175/-, Rs.440/-, Rs.740/- and Rs. 1440/- as per wage revision/settlement.

iv. That unfortunately, Late Mahendra Singh expired on 30.03.2011, i.e., within one year of his appointment on regular basis in bank and before he could have been qualified for full retiral benefits or before PF number could have been allotted to him and therefore, no PF contributions have been made by him or by the Bank. Further, as per record/personal file, he could not opt for Pension Option as per Bipartite Settlement 25.04.2010 while he was alive.

V. That his dependent family members are entitled for Gratuity as per Payment of Gratuity Act/Award/ Bipartite Settlement since Late Shri Mahendra Singh expired within one year of his appointment as Part Time Sweeper on 1/3rd Scale Wages. Monetary benefits paid to the family of the deceased was as follows:

a. Gratuity: Rs. 43860/-

b. Financial aid: Rs. 30000/-

c. Funeral expenses: Rs. 5000/-

vi. That, even otherwise, for Pension Entitlement under Pension Regulation, 1995 he does not qualify for Pension as he did not complete minimum of ten years of qualifying service as permanent employee nor his dependent became eligible for family pension as he could not complete minimum one year of regular service after his appointment.

vii. That it is respectfully stated that one of his son, Sh. Kundan Kumar (PF No. 317898) is appointed as PTS in the services of the bank on 05.05.2014 and posted at BO: Belkhara.

6. That with regard to the reliefs prayed for in paragraph no. 1 of the writ application under reply it is stated the same cannot be allowed for the reasons already enumerated in the aforementioned paragraphs."

In the background of the aforesaid facts, this Court does not find any reason to entertain the appeal. The appeal would stand dismissed in limine.

