
(2012) 09 JH CK 0217

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1393 of 2010

Basmatia Devi

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 25-09-2012

Acts Referred:

Citation : (2013) 1 JLJR 254

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : A.K. Singh, for the Appellant; Deepak Roshan, L.C.N. Sahdeo, Ananda Sen and Ranjan Kumar, for the Respondent

Judgement

Alok Singh

1. W.P.(S) No. 4599 of 2007 was filed by the petitioner to issue writ of mandamus commanding upon the respondents to pay C.M.P.F. amount along with interest to the petitioner, whose father had expired on 16.09.2006. That writ petition was disposed of vide order dated 29.11.2007, in view of the statement made in the counter affidavit, with the direction to the respondents to hand over the said cheque to the petitioner within a period of two weeks. When the said amount was not paid to the petitioner as undertook by the Regional Commissioner, Coal Mines Provident Fund in paragraph 7 of the counter affidavit, petitioner had filed Contempt Case (C) No. 337 of 2008. Meanwhile, CCL had also filed Civil Review No. 13 of 2008. Contempt petition as well as Review petition were decided by common judgment dated 28.10.2009, Annexure-2 of the writ petition, with a direction to the CCL to return the cheque to the CMPF for re-validation within a period of one week, and the CMPF, in turn, was directed to send the cheque to the CCL within a period of one week, after re-validation. Thereafter, the CCL was directed to hand over the cheque to the petitioner within a period of one week, along with cost of Rs. 2500/- to be paid to the petitioner. Grievance of the petitioner is that despite the order dated 29.11.2007, passed in W.P.S. No. 4599 of 2007 and order dated 28.10.2009 passed in Contempt

case(C) No. 337 of 2008 and Civil Review No. 13 of 2008 payment was not made to the petitioner within the stipulated time. However, the payment was made in the month of February, 2010. Therefore, respondents should be directed to make payment and the interest for the delayed payment.

2. Learned counsel for the petitioner argues that as per Clause 61 of the CMPF Rules, interest has to be paid for the delayed payment.

3. Learned counsel for the CCL submits that immediately after order dated 28.10.2009, cheque was returned to the CMPF for re-validation. However, cheque was not re-validated at the earliest and after re-validation it was given to CCL on 14.1.2010 and immediately thereafter it was handed over to the petitioner. Therefore, CCL cannot be held guilty for the delayed payment.

4. Having perused the record and having heard learned counsel for the parties, I do not find any valid reason for keeping the cheque for re-validation for such a long period by CMPF. In the opinion of this Court interest of justice would be served if respondent no. 5 is directed to make calculation of interest @ 10 % per annum from 29.11.2007, the date when the judgment was passed in W.P.S. No. 4599 of 2007 till actual payment is made to the petitioner and to pay the same to the petitioner within 90 days from today. Ordered accordingly.