
(2013) 11 JH CK 0052

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3955 of 2013

Chano Devi

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-11-2013

Acts Referred:

Citation : (2014) 1 AJR 786 : (2014) 1 JLJR 52

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Lalan Kumar Singh, for the Appellant; A.K. Pandey, for the Respondent

Judgement

S. Chandrashekhar, J.—The petitioner has approached this Court seeking following reliefs: (i) Pay the Leave Encashment of Rs. 36,736/- (Annexure-1 vide letter No. 1124 dated 19.8.2006);

(ii) All other legal dues which is lying in the office of Respondents and the

(iii) Interest of the amount at the current market rate.

The brief facts of the case are that, the husband of the petitioner died on 09.06.1999 during the service period from the office of Minor Forest Produce Project, Ranchi. The husband of the petitioner was working as Forest Guard. The petitioner made representation for payment of leave encashment amounting to Rs. 36,736/- however, since it was not paid to the petitioner, the petitioner has approached this Court.

2. A counter-affidavit has been filed stating as under:

2. That the petitioner is widow of late Nageshwar Ram who was posted as Forest Guard in the Bihar State Forest Development Corporation Ltd. and died on 9.8.1999. The petitioner has prayed that the concerned respondent may be directed to pay the leave encashment of Rs. 36,736/-pursuant to letter No. 1124 dated 19.8.2006 contained at annexure 1 of the main writ application. It is

pertinent to mention here that Bihar State Forest Development Corporation Ltd. is a necessary Party in the instant writ application.

3. That the Divisional Manager, Minor Forest Produce Project, Division Ranchi vide letter No. 98 dt. 16.1.2004 addressed to General Manager, Minor Forest Produce Project, Ranchi forwarded the documents for payment of leave encashment of the Retired employee alongwith a chart indicating the details of the husband of the petitioner and other employee and the amount payable to the petitioner on account of the death of her husband late Nageshwar Ram amounting to Rs. 36,736/-.

4. It is answering respondent most humbly state and submit that the General Manager, Minor Forest Produce Project, Ranchi vide letter No. 109 dated 26.2.2004 requested the Managing Director, Bihar State Forest Development Corporation Ltd. to release the amount payable to the retired/dead employee on account of leave encashment.

5. That the answering respondent most humbly state and submit that pursuant to letter No. 109 dated 26.2.2004 issued by the General Manager, Minor Forest Produce Project, Ranchi, the Managing Director, Jharkhand State Development Corporation Ltd. Vide letter No. 215 dated 27.3.04 requested the Managing Director, Bihar State Forest Development Corporation Ltd. to release the total amount of Rs. 1,95,902/- on account of payment of unutilized leave/leave encashment. It comes out from the instant letter that the amount payable to the petitioner has not been released by the Bihar State Forest Development Corporation Ltd. Therefore the Managing Director, Jharkhand State Development Corporation Ltd. requested the Managing Director, Bihar State Forest Development Corporation Ltd. for release of Rs. 1,95,902/-.

6. That the Divisional Manager, Minor Forest Produce Project, Division Ranchi vide letter No. 1630 dt. 1.9.2008 requested the General Manager, Minor Forest Produce Project, Ranchi to take necessary action for release of Rs. 36,736/- payable to the petitioner on account of leave encashment due to death of her husband late Nageshwar Ram, Forest Guard.

7. That vide letter No. 951 dated 6.9.2008 the General Manager, Minor Forest Produce Project Ltd. Ranchi forwarded the aforesaid letter No. 1630 dated 1.9.08 to the Additional PC.C.F-cum-Managing Director, Jharkhand State Forest Development Ltd. Ranchi in the matter of payment of leave encashment of late Nageshwar Ram, Forest Guard, the husband of the petitioner.

8. That it is pertinent to mention here that vide letter communicated through its memo No. 1866 dt. 25.10.2008 the Managing Director, Jharkhand State Forest Development Corporation Ltd. requested the Bihar State Forest Development Corporation Ltd. to make available the draft of Rs. 36,736/- for payment to the petitioner on account of unutilized leave.

9. That the answering respondent state and submit that a fresh reminder has

been sent by the Jharkhand State Forest Development Corporation, Managing Director Bihar State Forest Development Corporation Ltd. to issue a Bank draft of Rs. 36,736/- for payment on account of unutilized leave in favour of the petitioner vide letter number 1600 dated 16.08.2013.

10. That it is pertinent to mention here that the husband of the petitioner was an employee of Bihar State Forest Development Corporation Ltd., he died on 9.6.1999, before creation of the Jharkhand State Forest Development Corporation Ltd. the liability to pay Rs. 36,736/- in favour of the petitioner is of Bihar State Forest Development Corporation Ltd. It is further submitted that the Rs. 36,736/- will be paid to the petitioner soon after its receipt from the Bihar State Forest Development Corporation Ltd. Patna, Bihar.

3. Heard learned counsel for the parties and perused the documents on record.

4. The learned counsel appearing for the petitioner has submitted that since the claim of the petitioner has not been denied by the respondent nos. 2-5, the plea taken by the respondents that since the petitioner's husband died in the year, 1999 it would be the liability of Bihar State Forest Development Corporation Ltd., is not tenable. The petitioner is a widow, who lost his husband in the year, 1999, has claimed Rs. 36,736/- on account of leave encashment merely and merely because the State of Bihar was bifurcated, the claim which has been admitted by the respondent nos. 2 to 5, cannot be denied.

5. Mr. A.K. Pandey, learned counsel appearing for the respondents has submitted that the Bihar State Forest Development Corporation Ltd. is a necessary party in this case however, it has not been made party and therefore, this writ petition is not maintainable. In fact, even today the assets and liability of the Bihar State Forest Development Corporation Ltd. have not been decided and therefore, it would be the liability of the Bihar State Forest Development Corporation Ltd. Having heard the submissions advanced by the learned counsel for the parties, I am of the view that the contention raised by the respondents is not tenable. It has not been denied by the respondent nos. 2-5 that the Corporation is still functioning and salary and other allowances to the employees are paid by the Jharkhand State Forest Development Corporation Ltd. Since, the husband of the petitioner died during the service from the office of Minor Forest Produce Project, Ranchi, which falls under the Jharkhand State Forest Development Corporation Ltd., I am of the view that the plea taken by the respondent nos. 2-5 cannot be accepted and therefore, I hereby direct the respondent No. 5 to make payment to the petitioner amounting to Rs. 36,736/- with the interest @ 6 % per annum from 09.06.1999. However, it is made clear that for the payment made to the petitioner, the respondents may take up the issue with the Bihar State Forest Development Corporation Ltd. for adjustment when the assets and liability are apportioned.