
(2016) 01 JH CK 0232

In the Jharkhand High Court

Case No : Civil Review No. 11 of 2011 with Cont. Case (Civil) No. 587 of 2014

Chief General Manager, CCL, Bokaro

APPELLANT

Vs

Sukur Mani Kamin and others

RESPONDENT

Date of Decision : 22-01-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 114

Citation : (2016) 2 JBCJ 58

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Abhijeet Kr. Singh, Advocate, for the Respondent

Final Decision : Disposed off

Judgement

Aparesh Kumar Singh, J. - Review petitioner was the respondent in the writ petition where a direction was issued in the matter of claim for post retirement benefit sought by the writ petitioner in lieu of late Ramesh Munda said to be her husband, who had retired from the services of CCL and died on 22.04.2001. For better appreciation, judgment dated 13.12.2010 passed in W. P. (S) No. 5184 of 2010 is quoted hereunder:-

"Heard learned counsel for the petitioner and learned counsel for the respondents.

The husband of the petitioner was working under the respondents and he retired and subsequently died on 22.4.2001. The death certificate is annexed with the writ petition as Annexure-2. After the death of the first wife, the petitioner was married to the incumbent and therefore, the petitioner is rightful claimant of the post retiral benefits accrued to her late husband. Several representations have been made, but the respondents have failed to take any notice. The last representation/reminder was dated 18.8.2010, which has been annexed as Annexure-5, but all efforts proved futile.

Counsel appearing for respondent nos. 1 to 4 states that they are required to

forward the representation after examining the record and thereafter respondent No. 5 will making the disbursement.

In the circumstance, respondent nos. 1 to 4 shall make every endeavour to forward the representation within two weeks to the concerned authority from the date of certify copy of the order is produced before him and thereafter within three weeks the Regional Commissioner, Coal Mines Provident Fund, Region -III, Ranchi Municipal Corporation Building, district Ranchi shall decide the matter and disburse the entire post retiral benefit forthwith.

It is made clear that this direction should be followed and adhered in letter and spirit.

With the aforesaid observation and direction, this writ petition stands disposed of."

2. The review petitioner has raised a plea that writ petitioner/opposite party herein had suppressed facts while seeking relief from this Court. Reference is made to an affidavit at Annexure-4 dated 15.09.2003 stating that she herself is also known as Hira Kamin, which was in fact name of the first wife of the deceased-employee. She had sought correction in service book on such representation for inclusion of her name as Sukur Mani Kamin @ Hira Kamin. This fact was not brought to the notice of the Court. The review petitioner therefore have a serious doubt about the identity of the writ petitioner in the matter of compliance of direction passed in the writ petition.

3. Counsel for the CMPF has filed show cause in the connected Contempt Petition stating that name of the writ petitioner was not appearing in the nomination form of provident fund where name of Hira Kamin was appearing, therefore, claim of the petitioner has been returned to the employer-CCL. Counsel for the CMPF has stated that in Form PS-3 prepared in 1998, the name of Sukur Mani Kamin is shown.

4. Counsel for the writ petitioner/opposite party herein has submitted that she has never represented falsely or suppressed facts while approaching this Court for payment of post retiral dues of the deceased-employee. She had annexed death certificate of first wife Hira Kamin, who is said to have died in 1973 itself. It is also submitted that affidavit said to be relied upon to raise the element of doubt is not worthy to discredit her case as she is an illiterate lady, who may have put her thumb impression on such a document without knowing the contents therein. She can never pose herself as Hira Kamin as one and the same person.

5. Counsel for the writ petitioner/opposite party herein again submits that order passed by the writ court is very clear and no determination on merits of the claim of the petitioner has been made. A direction has only been issued upon the respondent to forward her representation to the office of Regional Commissioner, CMPF, Region-III, Ranchi, who, in turn, has been directed to decide the matter

and disburse the post retirement benefits thereafter.

6. Counsel for the writ petitioner/opposite party herein again reiterates that petitioner is the second wife of the deceased-employee and does not impersonate anyone. Her name is also shown in PS-3 Form forwarded by CCL to CMPF.

7. Having considered the rival plea of the parties, it appears from perusal of the judgment sought to be reviewed that a direction was issued upon the respondent therein to forward the representation of the petitioner to the concerned authority/ Regional Commissioner, CMPF, Region-III, Ranchi for deciding the matter. Counsel for the respondent-CCL had also indicated that representation would be forwarded after examining the record and thereafter respondent No. 5 will make disbursement. In that case, respondents, while considering the claim of the writ petitioner, had any doubt about the identity, it goes without saying that it was open to them to reject the representation and/or ask for any declaration from the competent Court of law about her rightful legal identity. As a matter of fact, the Writ Court did not determine any claim of the writ petitioner on merit. Therefore on consideration of the aforesaid plea, Civil Review Petition is disposed of with the aforesaid observation.

8. The contempt petition is dropped for the present in view of the observation made in the civil review petition as above.