
(2004) 09 PAT CK 0076
In the Patna High Court
Case No : CWJC No. 12898 of 2001

Dheeraj Kumar Verma and Others	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 24-09-2004

Acts Referred:

Citation : (2006) ACJ 1988 : (2004) 3 BLJR 1776 : (2005) 1 PLJR 415

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Advocate : Anil Kr. Mukund, Umesh Prasad, for the Appellant; Rajendra Pd. Singh, for the Respondent No. 3, for the Respondent

Final Decision : Allowed

Judgement

Mridula Mishra, J.—Petitioners are the legal heirs of late Hare Krishna Lal, who was accountant in Saharsa Municipality and died in harness on 1.3.1999. This application has been filed by the petitioners for a direction to respondent Nos. 2 and 3 to make payment of retiral dues of their late father relating to earned leave, gratuity, provident fund, arrears of bonus and increment. Further prayer, is for a direction to respondent No. 4, Life Insurance Corporation of India, to make payment of group insurance with interest.

2. Petitioner No. 2 son of Hare Krishna Lal was appointed on compassionate ground in Saharsa Municipality after the death of his father. He made the grievances for payment of death-cum- retiral dues of his father. No action was taken by the special officer, Saharsa Municipality. As such, he approached the respondent No. 2, the District Magistrate, Saharsa , for payment of retiral dues and in turn the District Magistrate, Saharsa, by his letter dated 24.8.2000 directed the special officer to take necessary steps for redressal of his grievances, Even then no payment was made by respondent No. 3. Since money was urgently needed for marriage of petitioner No. 3, the present application has been filed by the petitioners. The Life Insurance Corporation of India by letter dated 15.2.2000 has communicated that only premium amount of Rs. 8,000/- is

payable for which a cheque has already been issued to Saharsa Municipality. Life Insurance Corporation of India has taken the plea that policy lapsed in the year 1999 itself on account of non-payment of premium in due time. Petitioner's stand is Life Insurance Corporation as well as Municipality have adopted an arbitrary approach by withholding legal dues of their father payable to them.

3. Respondent No. 3 has taken a stand that the GPF with interest and gratuity were offered to petitioner No. 2 who refused to accept it taking the plea of pendency of this writ application. The cheque sent by the Life Insurance Corporation of India amounting to Rs. 8,000/- was also offered but it was refused by petitioner No. 2. It has also been stated by respondent No. 3 that petitioners' father had taken loan from his provident fund account as per audit report and after deducting that amount, the remaining amount was offered to petitioner No. 2 but the same was refused. Respondent No. 3 is ready to offer that amount to the petitioner.

4. Petitioners' counsel vehemently objected to the statement of respondent No. 3 that Rs. 78,700/- was outstanding dues against the father of the petitioners. It has been submitted that no notice was issued to the petitioners but in reaction to the show cause issued by this Court in the writ application, respondent No. 3 has taken this stand that Rs. 78,700/- is the outstanding dues against the father of the petitioner. It has also been submitted that no details of the amount taken by their father have been furnished to them.

5. Without going into dispute, since the respondent is ready to make payment of the admitted dues to the petitioners after deducting the amount which, according to the audit report, is liable to be deducted, the petitioners are directed to receive the cheque offered by the respondent No. 3. Petitioners, if they desire, may represent before respondent No. 3 for payment of remaining dues after they get the statement of account furnished by respondent No. 3 regarding the amount taken by their father as loan from GPF.

6. So far entitlement of the petitioners group insurance is concerned, respondent No. 4 has filed counter-affidavit and supplementary counter-affidavit stating that the petitioners are not entitled to receive any group insurance amount. A cheque equivalent to premium amount has already been issued in favour of the petitioner. The stand of respondent No. 4 is that Corporation is not liable to pay group insurance amount as master policy under Group Saving Linked Insurance Scheme (hereinafter referred to as "GSLI Scheme") lapsed in January, 1997. Saharsa Municipality was asked to make up-to-date payment with interest, with a declaration of good health of its employees as well as yearwise fresh list showing change in the category of the employment. This was not complied and as per terms and conditions governing the payment of "GSLI Scheme", no amount is payable to the employees under the scheme. In case of a lapsed policy, Corporation has neither contractual nor statutory liability in making payment of insurance amount to the insured. As such, the insured is only entitled for surrender value for which already a cheque has been issued.

7. Mr. Umesh Prasad Singh, learned counsel appearing for the Life Insurance Corporation of India, has placed reliance on two decisions in order to show that Salary Saving Scheme and Group Insurance Scheme are totally two different schemes floated by the Life Insurance Corporation of India and any order passed in a case covered by Salary Savings Scheme will have no bearing on claim made under Group Insurance Scheme. The decisions are 1999 Vol. 8 SCC 229, Delhi Electric Supply Undertaking v. Basanti Devi and Anr. and 2002 (1) Bihar Law Judgment 206, The Chairman, Life Insurance Corporation of India and Ors. v. Rajeev Kumar Bhaskar. It has also been submitted that decision reported in 2000 (2) PLJR 486, Chameli Kahtun v. The State of Bihar and Ors. is a case under the Group Insurance but that has been challenged before the Supreme Court.

8. Learned counsel for the Life Insurance Corporation of India in the supplementary counter-affidavit has given a comparative chart of both Salary Savings Scheme and Group Savings Linked Scheme. Under the Group Savings Linked Scheme, a master policy is issued in the name of the employer termed as grantees. The policy continues until the employer continues to pay the premium and this is a special feature that although an employee may superannuate, die or new employee may join to the policy, it has no impact on the continuation of the policy. Employee has to authorise the employer to deduct the amount of premium from his salary and the premium amount is paid by the employer through a common cheque. Under this scheme, there is no grace period allowed for payment of premium. In case of death or retirement of the employees the amount is paid to the employer by the LIC for payment to the employee or his nominee. The employee is known as beneficiary under the scheme. In case the beneficiary under the scheme i.e. the employee does not receive salary in any particular month it is the duty of the employer to advance the premium of that master policy to the Life Insurance Corporation of India.

9. Regarding the Salary Savings Scheme it has been stated that under such scheme the employee either individually or with his wife may sign the proposal form for a sum as desired by him. The LIC enters into a contract of insurance with the employee and the benefit under the insurance is directly payable to the life assured, namely, the employee. The period under the policy may be as desired by the employee which may come to an end after his retirement from service or it may continue if he so desires. Under this scheme, the employees instead of paying the premium to the Corporation directly just to facilitate the timely payment of premium may authorise the employer to deduct the amount of premium from his salary every month and remit the amount to the Corporation which is credited to the policy obtained by the employee himself. Even in case of non-payment of salary by the employer he can pay the premium to the Corporation. The benefit under this policy is an individual benefit to the life assured or the nominee. Under this scheme, there is a grace period of 15 days in case of monthly and quarterly payment and 30 days in case of half yearly and yearly payment. The policy comes to an end in case of death of the life assured. Though the argument advanced on behalf of the learned counsel for the LIC is

that there are some vital differences in between the two policies i.e. the policy under Salary Savings Scheme and policy under Group Savings Linked Insurance Scheme, but I find that under both the schemes the eligibility criteria in joining the schemes is same. Under both the schemes, the employee has to authorise the employer to deduct the premium amount from the salary of the employee. The responsibility of remitting the premium amount is of the employer. Under both the schemes the employer acts as an agent for collecting the premium and remitting the same to the LIC. The employer is authorised to collect the premium payable to the LIC by deducting every month from the salary of the employees and remit the same to the LIC. it can be said that under both the schemes of the LIC employer is authorised by the employee to collect the premium from his salary every month and pay it to the LIC as premium. Under both the schemes the LIC does not communicate in case of non-payment of premium or otherwise to the employee directly. The payment is also not made to the employee directly. In such a case, if the policy lapsed on account of non- payment or untimely payment of the premium it can be said to be the fault of the employer who acts as an agent of the LIC. The assured cannot be penalised for such failure to discharge of liability of the employer and the LIC, Under both the scheme employee is not being given any separate notice nor is he given any receipt for the premium received. Considering both the schemes, I do not find any vital difference except that under the Salary Savings Scheme the employee can join the scheme along with his wife and also that he may continue the scheme even after his superannuation if he desires so. Except this difference, both the schemes are identical and whatever relief has been given by the Apex Court to the widow of the employee of Delhi Electricity Board can be given to the petitioner in the present writ application. In all the three reported decisions which have been cited by the parties, it has been decided that the employee cannot suffer for the laches on the part of the employer when he is liable to deduct the amount from the salary of the employee and make payment of premium through cheque since the employer acts as an agent of the LIC and no notice of payment of non- payment of premium is given to the employee, the LIC is liable to make payment of insurance amount to the employee. The case of the present petitioner is fully covered by these decisions. It has wrongly been mentioned in the supplementary affidavit that no grace period is allowed under the Group Savings Linked Insurance Scheme when in the counter-affidavit it is specifically been stated that Saharsa Municipality was asked to deposit premium along with interest giving full details regarding the conditions of health of the employees as well as changes in the category of employer under the scheme. This notice was never given to the father of the petitioner who was the beneficiary. It indicates that the LIC was ready to give grace period to the Saharsa Municipality. On comparison it is found that whatever benefits an employee is entitled under the Salary Savings Scheme, the beneficiaries under the Group Savings Linked Insurance Scheme are also entitled for similar relief.

10. In the facts and circumstances, this writ application is allowed and the LIC is

directed to make payment of group insurance amount to the petitioner with interest within a period of three months from today. The petitioner shall be entitled to interest @ 12% from the date of the death of the father of the petitioners till the date of payment.