
(2013) 02 JH CK 0003
In the Jharkhand High Court
Case No : WP (C) No. 5397 of 2012

Girija Sinha

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 13-02-2013

Acts Referred:

Citation : (2013) 4 JLJR 150

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Binod Kr. Dubey, for the Appellant; Shamim Akhtar and Arvind Kr. Mehta, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard the counsel for the parties. The petitioner has claimed compensation of Rs. 10,00,000/- on the death of her husband said to have been killed by the extremists in course of employment and as such she is entitled to the compensation in view of the notification of the Finance Department, contained at Annexure-3 dated 11.6.2011.

2. According to the petitioner, her husband was placed under suspension on 23.9.2005 at his headquarter at Gola Circle by the order of the Deputy Commissioner, Hazaribagh. He was however killed by the extremists on 31.10.2006 while a departmental proceeding initiated against him was continuing and he was still under suspension. An order was passed in the departmental proceeding, thereafter exonerating him of the charges, however holding that he will not be paid full salary apart from the subsistence allowance during the period of suspension. The said order was challenged by the petitioner in W.P.S. No. 3318 of 2007 which was decided on 17.9.2008. It is submitted that this Court, in the circumstances, held that the stand of the respondents not to pay the full salary to the deceased employee during the period of his suspension is quite illegal and accordingly, the said order was set aside. The respondents were directed to pay the death-cum-retrial benefits to the petitioner-wife of the deceased employee on her representation including the salary of her husband during the period of his

suspension. It is submitted that vide resolution dated 11.6.2011 (Annexure-3) the dependent of the deceased employee, who has died during his period of employment on account of violent act of extremists/anti-social elements is entitled for compensation of Rs. 10,00,000/-. Accordingly, she made representation before the district authorities at Hazaribagh vide Annexure-4 but they have not yet made such payments.

3. Respondents in their reply by way of counter affidavit have taken stand that the Circle Officer of the concerned circle, Keredari was asked to submit a report relating to the presence of the deceased employee in the said circle during his period of suspension. On the basis of the letter contained at Annexures-E and F it has been stated that the Circle Officer, Gola has reported that there was no information in relation to the whereabouts of the petitioner's husband after 24.10.2006. He died while on unauthorized absence and not during duty hours and therefore the petitioner is not entitled to compensation claimed.

4. In reply petitioner has brought on record the order dated 3.12.2008 and the payment chart of the petitioner's husband by which it has been shown that the respondent- authorities have treated the petitioner's husband as on duty till 31.10.2006 in making payment of full salary up to the said period. It is submitted that the aforesaid stand of the respondents are therefore, contrary to their own records and this cannot be made ground refusing compensation to the petitioner.

5. I have heard counsel for the parties at length and gone through the relevant materials including the impugned order. The husband of the petitioner is said to have died in extremists activities for which it is stated that F.I.R. was also lodged by the petitioner. The petitioner's husband was under suspension from 23.9.2005 at his headquarter at Gola Circle by the order of the Deputy Commissioner, Hazaribagh. After his death on 31.10.2006 the disciplinary authority passed an order dated 5.6.2007, which was under challenge in W.P.S. No. 3381 of 2007. This Court, while allowing the said writ petition held that the stand of the respondents that the deceased employee was not entitled to full salary for the period of his suspension was illegal and directed for payment of the salary of her husband for the said period of suspension alongwith post retirement benefits. Thereafter, an order was passed on 3.12.2008 by the Deputy Commissioner, Hazaribagh granting salary for the entire period of suspension treating the aforesaid period up to his death i.e. 31.10.2006 as in service. Petitioner was paid full salary of her husband as would appear from the document annexed to the rejoinder.

6. It appears that the petitioner's husband has been treated to be on duty by the respondents themselves. However the claim of compensation to the widow-petitioner is not being entertained on the ground that he was not on duty. In these facts and circumstances, the respondent-Deputy Commissioner, Hazaribagh is directed to consider the claim of the petitioner in the form of compensation in terms of the resolution of the State Government, said to be

published on 11.6.2011 and pass a reasoned and speaking order in accordance with law within a period of 12 weeks after the receipt of the copy of this order. The writ petition is disposed of in the aforesaid terms.