
(2004) 03 PAT CK 0094
In the Patna High Court
Case No : C.W.J.C. No. 8818 of 2003

Lilawati Devi

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 23-03-2004

Acts Referred:

Citation : (2004) 4 PLJR 602

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Radha Mohan Prasad, J.—Heard learned counsel for the petitioner and the learned Addl. Standing counsel appearing for the respondents and perused the writ petition, the order violation of which has been complained and also the show cause filed on behalf of the respondents. From the relief prayed for in the writ petition it seems that the petitioner has challenged the order of removal of her deceased husband from the post of Rakshak passed on 31.12.1970 and confirmed in appeal vide order dated 11.1.1971, contained in Annexure 2, after lapse of 33 years and the learned counsel got the writ petition disposed of in terms of the general order passed on 19.9.2003 with several other writ petitions without bringing to the notice of the Court that the matter is not covered for disposal in terms of general order as the petitioner has challenged the order of removal of her deceased husband from service. This matter has come up on filing of affidavit by the petitioner under the advice of the learned counsel pursuant to the liberty granted in the general direction complaining its non-compliance.

2. In the show cause filed on behalf of the respondents it is stated that the husband of the petitioner was paid his settlement provident fund dues in the year 1971 itself by pay order dated 20.1.1971, contained in Annexure A/1. Further it is stated that the husband of the petitioner did not challenge the dismissal order as well as appellate order before any higher authority and accepted the same

and also received the provident fund dues from the respondents.

3. It is really unfortunate that the learned counsel has got the writ petition disposed of in terms of the general direction obviously for oblique purpose so that the writ petition may not be dismissed in limine on the ground of gross delay and laches. This is also evident from the fact that even later no petition was filed for recall of the order as is usually done in the matter where the learned counsel failed to appear at the time of disposal of the case. Moreover, the mentioning of the subject as "Retirement Benefits-Family Pension-Group ii(iv)" also shows the malafide of the counsel as according to the relief prayed the matter does not relate to Retirement Benefit. In fact, filing of the writ petition itself and that too by mentioning aforementioned subject was completely ill-advised as it suffered from gross delay and laches. In the facts and circumstances aforementioned, the matter is finally concluded with the direction that a cost of Rs. 5,000/- should be paid by the learned counsel for the petitioner to the respondents and a receipt thereof must be filed in this Court within two weeks.