

(2006) 07 JH CK 0053
In the Jharkhand High Court
Case No : WP (C) No. 3017 of 2003

Mostt. Archana Devi @ Channa Devi

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-07-2006

Acts Referred:

Citation : (2006) 4 JCR 474

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Advocate : Rajeeva Sharma, for the Appellant; K.K. Jhunjhunwalla, G.P. III and Jay Prakash Jha, for Respondent No. 6., for the Respondent

Judgement

Permod Kohli, J.—Petitioner is widow of Late Jayant Kumar Mandal, who was serving as a Headmaster, Primary School, Gilanari, Anchai Mirzachoki, District Sahibganj and died in harness on 27th September. 1998. It is admitted case of the parties that the deceased employee had three legal heirs, namely, the petitioner as widow; respondent No. 6, daughter from first marriage and another daughter, namely, Daya Kumari from petitioner (second wife). None of the legal heirs have received retiral benefits of the deceased-employee including family pension.

2. Respondent No. 6 has failed a title suit in the Court of Sub-Judge-1, Sahibganj which came to be registered as Title Suit No. 12 of 2000, claiming her share of the retiral benefits as also compassionate appointment. The suit is still pending. In the present petition also, petitioner, widow of the deceased-employee is claiming her right to compassionate appointment to the exclusion of respondent No. 6 and share of the retiral benefits.

3. In so far the question of right to retiral/pensionary benefits is concerned eligible legal representatives of the deceased-employee are entitled to the benefits under rules. Since both the daughters are unmarried and they are eligible along with the petitioner to share the retiral benefits including family

pension.

4. As far the question of compassionate appointment is concerned under the norms of compassionate appointment laid down by the State Government, it can be given to the widow, son, unmarried daughter and widow daughter-in-law. The scheme also provides the order in which the preference is required to be given to the legal representatives in the matter of compassionate appointment. It is not in dispute that the widow has preferential right over the son and unmarried daughter to secure the compassionate appointment. However, this right is subject to eligibility under rules. It cannot be lost sight of that if the widow is given appointment, she is bound to maintain the unmarried daughters till their marriage or till any of them acquire an independent source of income.

5. In view of the above factual and legal background, I propose to dispose of this petition with following directions:

(i) All retiral benefits including family pension shall be equally shared by all the three legal representatives of the deceased employee namely, Jayant Kumar Mandal. However, the daughters will be entitled to their share of family pension till the date of their marriage.

(ii) Petitioner shall have preferential right to secure the compassionate appointment and if for any reason, petitioner is found to be ineligible, in that eventuality, Respondent No. 6 shall have right to secure the compassionate appointment and petitioner shall have no objection, if she is given the appointment.

(iii) In the event, petitioner is granted compassionate appointment, she will maintain both daughters till their marriage or till any one of them acquires an independent source of income, whichever is earlier. Needless to say that petitioner being mother and head of the family, will take all necessary care and steps for the welfare of the children including their marriage.

(iv) Copy of this order shall be provided to the concerned authorities for appropriate order in the light of the directions hereinabove. Respondent-State and its authorities are directed to settle the retiral/pensionary claims of the parties as also decide the question of compassionate appointment within a period of three months from today in accordance with the directions contained hereinabove.

(v) Title Suit No. 12 of 2000 filed by respondent No. 6 shall stand disposed of in terms of this order.