

(2003) 05 JH CK 0039
In the Jharkhand High Court
Case No : Civil Revision No. 84 of 2002

Mostt. Chanda Devi	Vs	APPELLANT
State of Jharkhand and Others		RESPONDENT

Date of Decision : 07-05-2003

Acts Referred:

Citation : (2003) 2 BLJR 1228 : (2003) 3 JCR 489

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Sunil Kumar, for the Appellant; S.N. Prasad and Shamim Akhtar, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—This is an application filed by the mother of the deceased employee seeking review of the order dated 4-3-2003 passed in W.P. (S) No. 1525/ 2002. The aforesaid writ petition was filed by Smt. Savitri Devi, the widow of the deceased late Arun Kumar Gupta. She impleaded the authorities of the respondent State of Jharkhand and sought direction for the release of the retiral benefits.

2. This Court by order-dated 4-3-2002 disposed of the writ petition with a direction to the District Provident Fund Officer, gumla to see that the provident fund amount legally payable to the petitioner, if not paid, is paid to her, So far other claims are concerned, petitioner was directed to file representation before the Deputy Commissioner, Gumla with a copy to the Civil Surgeon, Gumla who shall look into the matter and see that all admitted death-cum-retiral dues legally payable to_the petitioner is paid to her within a period of two months from the date of receipt of copy of this order.

3. The petitioner of this review petition, who is mother of the deceased has stated that her son Late Arum Kumar Gupta died on 23-9-2001 leaving behind three minor sons who are residing with her and they are being looked after by

her. It is stated that the deceased prior to his death made a registered will executed on 11-8-2001 in her favour stating therein that the entire retiral benefits shall be paid to her and service on compassionate ground shall be (sic) namely Nand Kishore Gupta. A reply to the review application has been filed by the writ petitioner namely, Smt. Sabitri Devi, wherein she has not disputed the fact that the minor children are residing with their grand mother. However, she has disputed the genuineness of the registered will alleged to have been executed by the deceased employee.

4. Admittedly, minor sons are residing with the grand mother (review petitioner) and deceased employee alleged to have executed registered will in favour of his mother, In such circumstances, the writ petitioner ought to have impleaded mother of the deceased employee as party respondent in the writ petition. This fact has not been stated in the review petition nor it has been brought to the notice of this Court by the writ petitioner when the order dated 4-3-2002 was passed by this Court. I am therefore, of the view that the order dated 4-3-2002 is liable to be reviewed by this Court.

5. Hence this review application is allowed and the order dated 4-3-2002 passed in W.P. (S) No. 1525 of 2002 is recalled. Consequently, the writ petition is disposed of with a direction that the respondents shall release the retiral benefits only on submission of the probate of the will and/or submission of the Succession Certificate by either of the parties. Since there is dispute relating to the entitlement of the retiral benefits, it is desirable that retiral benefits must be released only after the disputes are adjudicated in accordance with law by a Civil Court of competent jurisdiction. If any amount has already been paid to the writ petitioner, the same shall be deposited by her in the nationalised Bank and a receipt of such deposit shall be filed before this Court within two weeks from today.