
(2003) 02 PAT CK 0093
In the Patna High Court
Case No : C.W.J.C. No. 13782 of 2002

Mostt. Jubeda Khatoon

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 25-02-2003

Acts Referred:

Citation : (2003) 4 PLJR 410

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Pumendu Singh, for the Appellant; Mihir Kumar Jha and Mohit Kumar Shah for B.S.E.B., for the Respondent

Final Decision : Dismissed

Judgement

Radha Mohan Prasad, J.—In this writ petition the Petitioner has assailed the validity of the order passed by the Respondent Board on 13.4.2002, contained in Annexure 6, whereby the claim for payment of the amount from the Officers Welfare Fund and family pension have been rejected.

2. In short the relevant facts are that the Petitioner's husband died in harness on 11.4.1979 while working on the post of Head Foreman at Barauni under the Respondent Bihar State Electricity Board. Initially the Petitioner's husband joined the service of the Board as Technician, Grade I, on 26.2.1964 and later he was provisionally promoted to the post of Head Foreman vide notification dated 9.1.1979 on which post he continued till his death on 11.4.1979.

3. It is submitted that the post of Head Foreman is in the Officers grade and once the Petitioner's husband joined as an Officer he was entitled for pension and consequently the widow is entitled for family pension. Besides this, he being the officer was entitled to get the benefit from the Officers Welfare Fund which have wrongly been denied.

4. A counter affidavit has been filed on behalf of the Respondent Board. In the said counter affidavit it is not disputed that the husband of the Petitioner was

promoted as Head Foreman vide notification dated 9.1.1979. However, in paragraph 5 it is stated that for payment of post retiral benefits two types of provisions were existing in the Board at that time, i.e. G.P.F. and C.P.F. The employees who were the members of the G.P.F. scheme were paid pension and the members of C.P.F. scheme were paid a lump sum amount as per the Rules. It is asserted that the husband of the Petitioner Late Chand Ali was the member of contributory provident fund prior to his promotion to the post of Head Foreman. Accordingly due amount under the C.P.F. scheme has already been paid to the Petitioner. According to the case of the Board, as per provisions contained in Memo No. PT 2,9.4/83 300F dated 29.7.1980 of Finance Department the family pension to the Petitioner is not admissible. As regards the claim of the Petitioner for payment of the amount from the Officers Welfare Fund, it is stated that the same is provided for such nominees of the Officers who are members of the said fund. The fact is that Late Chand Ali was not a member of the said Fund because he had neither applied for the membership of the said Fund nor had deposited the share money for the same. Learned Counsel for the Board has thus submitted that the Petitioner is not entitled for payment of any amount from the Officers Welfare Fund.

5. The Petitioner has not filed any reply to the said counter affidavit. Learned Counsel for the Petitioner has failed to show that on mere promotion to the post of Head Foreman for about three months the deceased had become entitled to receive the pension and consequently the Petitioner was entitled for family pension. It is not disputed that prior to promotion as Head Foreman the Petitioner's husband was under the Scheme of C.P.F. From the Government Circular dated 29.7.1980 it appears that under notification dated 3.6.1964 by which the scheme for family pension was introduced only those persons were entitled to get family pension where the employee had rendered at least one year of service. This was modified by 1980 circular and the same was made effective from 1.4.1980. Undisputedly the Petitioner's husband died on 11.4.1979 much prior to 1.4.1980. Under such circumstances, I do not find any infirmity in rejecting the claim of the Petitioner for payment of family pension.

6. As regards payment of amount from the Officers Welfare Fund, learned Counsel for the Petitioner has failed to show that even if the deceased Officer of the Board had not applied for becoming member the benefit under the said Fund would be available to him. Moreover, Fund has been created as per the Scheme introduced by the Officers themselves and the Board only makes contribution and it is not under any statutory provision on which the Petitioner can claim any right in the present writ petition.

7. This Court, thus, does not find any merit in this writ petition and accordingly, it is dismissed.

8. Learned Counsel for the Petitioner has, however, submitted that the salary for three months since after promotion of the deceased was not paid. Learned Counsel for the Board has submitted that since there was no specific claim raised

he has not been able to get instruction on that. However, if any amount is payable the same shall be paid. Accordingly, this Court directs the Board to examine the said claim and pay the remaining admitted dues, if any.