
(2012) 08 JH CK 0172
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5222 of 2010

Ritu Upadhyay

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 07-08-2012

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2012) 4 JCR 395

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Advocate : P.C. Tripathy, for the Appellant; Ashok Singh, CGC, for the Union of India and Pandey Neeraj Rai, for the Respondents Nos. 2 and 3, for the Respondent

Judgement

D.N. Patel, J.—Learned counsel for the petitioner submitted that the petitioner is a widow of the deceased employee, who while working with the respondent-National Hydroelectric Power Corporation Limited expired in an accident on 3rd March, 2009 at Pathankot. In the nominee form, which was filled up at relevant time, since the petitioner's husband was not married, name of the petitioner was not mentioned in the nominee form. The nominee form is dated 6th June, 2004 with respect to one heading. Thereafter, the petitioner's husband got married with the petitioner and now he has expired and, therefore, the petitioner, being a widow of the deceased employee, is entitled to the death-cum-retirement benefits and the compensation, as claimed in the memo of the petition. So far as prayer made for compassionate appointment is concerned, the same is, hereby, waived, as the petitioner is only insisting for monetary compensation and death-cum-retirement benefits, which are legally payable to her. Learned counsel for respondent Nos. 2 and 3 fairly submitted that they are ready and willing to make payment of the legally payable dues because of death of husband of the present petitioner. But, the only difficulty is that on one hand 50% is claimed by the father and mother of the deceased employee and on the other hand, widow of the deceased employee i.e., the present petitioner is also claiming the amount

and, therefore, let a suitable direction be given to respondent Nos. 2 and 3 so that the amount may be paid, promptly to those who are legitimate claimant(s) of the amount, in question.

2. It is also suggested by the learned counsel for both the sides that the amount may be paid by the account payee cheque in the name of all the three persons, namely, the petitioner, who is the widow as well as in the name of father and mother of the deceased employee and, thereafter, they will apportion the amount, which is paid by respondent Nos. 2 and 3, either by opening joint bank account or otherwise.

3. Learned counsel for the petitioner is ready and willing to accept the account payee cheque in the name of all the three persons, namely, in the name of the petitioner as well as in the name of father and mother of the deceased employee. They will open a joint bank account and after receiving the cheque from respondent Nos. 2 and 3, they will distribute the same amicably.

4. In view of the aforesaid submissions, I hereby direct respondent Nos. 2 and 3 to issue one account payee cheque in the name of the petitioner (widow of the deceased employee) as well as in the name of father and mother of the deceased employee. The amount legally payable shall be calculated along with the statutory interest and if there is no provision of statutory interest, the same will be calculated with the simple interest at the rate of 4% per annum from the date on which the amount was found due and payable, till the date of issuance of the cheque. As respondent Nos. 2 and 3 are the "State" within the meaning of the Article 12 of the Constitution of India and being an ideal employer, respondent Nos. 2 and 3 would not have retained the dues, during pendency of the litigation, therefore, simple interest at the rate of 4% per annum upon the principal amount is, hereby, ordered, in absence of statutory interest.

5. Learned counsel for respondent Nos. 2 and 3 assures this Court that the exercise of issuance of the cheque and process of sending the same to the petitioner as well as father and mother of deceased will be completed, as expeditiously as possible and practicable, preferably within a period of four weeks from today.

6. In view of the aforesaid facts, I hereby direct respondent Nos. 2 and 3 to issue one account payee cheque in the name of the petitioner (widow of the deceased employee), father of the deceased employee and mother of the deceased employee, This exercise will be completed within a period of six weeks from the date of receipt of a copy of the order of this Court. In view of the aforesaid directions, this writ petition is disposed of.