
(2013) 07 DEL CK 0113

In the Delhi High Court

Case No : Writ Petition (C) No. 2557 of 2013

Saroj Devi

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 03-07-2013

Acts Referred:

Citation : (2013) 5 ILR Delhi 3259

Hon'ble Judges : Gita Mittal, J;Deepa Sharma, J

Bench : Division Bench

Advocate : Akhilesh Arora, for the Appellant; Amrit Pal Singh, CGSC, Mr. Gurjinder Kaur and Mr. R. Jayaram, AC/CISF, for the Respondent

Final Decision : Allowed

Judgement

Gita Mittal, J.—Learned counsel for the respondents has handed over a copy of the communication dated 28th June, 2013 whereby the respondents have communicated the recalculation and re-fixation of the pension which is found admissible to Smt. Saroj Devi, widow of Late Shri Chamru Oraon. Learned Standing Counsel for the Central Government has also handed over a copy of communication dated 21st June, 2013 received by him from the Directorate General of the Central Industrial Security Force in order to explain the circumstances in which the delay occurred in making payment of the extraordinary pension to the petitioner. So far as the writ petition is concerned, the respondents have disclosed the following facts:-

(i) CISF No. 774400121 Exh.-HC/GD Chamru Oraon was appointed in CISF on 05.04.1977.

(ii) He was posted to CISF Unit BCCL Dhanbad on 15.06.1999 and deployed at area No. VII of BCCL Dhanbad.

(iii) On 15th July, 2000 he was deployed for duty from 2100 hrs at Barari Coke plant of Bhagabandh Area with rifle and ammunition. Apprehending that HC/GD Chamru Oraon has fallen down in the water tank, some civilians went inside the

tank with the help of a ladder and recovered the unconscious body of HC/GD Chamru Oraon from the water tank. He was taken to nearby Kustor Hospital for treatment, where the doctor declared him brought dead at about 2135 hrs on 15th July, 2000.

(iv) On the next date i.e. on 16th July, 2000 postmortem was conducted at Patliputra Medical College Hospital (PMCH) Dhanbad. In the postmortem report it was opined, the cause of death to be due to Asphyxia as a result of drowning.

(v) As per the laid down procedure, a Board of Officers was detailed to conduct the Court of Inquiry so as to ascertain the facts and circumstances of the incident vide Commandant, CISF Unit BCCL Dhanbad order No. (1709) dated 27th July, 2000.

(vi) The Board conducted the inquiry and submitted its report on 5th August, 2000. In its report the Board opined that the cause of death to be due to falling down of the individual in the water tank and subsequently drowning in the water.

2. The petitioner has stated that the deceased was an able bodied officer who had served the respondents for a period of more than 23 years and that the deceased had actually drowned when he was on duty when he was posted at Bhaga Bandh, Dhanbad, Jharkhand.

3. There is no dispute that Head Constable/GD Chamru Oraon died on 16th July, 2000 while on duty. No fault could be attributed to him.

4. So far as the pension is concerned, the respondents sanctioned ordinary family pension as per Rule 54 of the CCS Pension Rules, 1964 vide PPO No. 237040001094 dated 9th November, 2000 and made the following payments:-

(a) DCRG-Rs. 1,31,389/- vide Cheque No. 0900-488604 dated 21.11.2000.

(b) CGEGIS-Rs. 30,000/- and Rs. 12,924/- vide Cheque No. 0900-486537 dated 25.10.2000

(c) EL/HPL-Rs. 28,887/- vide Cheque No. 0903-719072 dated 24.08.2001.

(d) RMS-Rs. 42,303/- vide B.D. No. 0971-327412 dated 20.10.2000

(e) GPF Rs. 24,221/- vide B.D. No. 0901-525408 dated 20.10.2001

5. No other payments were made to the family of the deceased Head Constable till 9th March, 2012 when the respondents released an ex gratia amount of Rs. 5,00,000/- to his widow (the present petitioner) after passage of 11 years and 7 months from the death of the petitioner's husband.

6. The petitioner represented against the failure of the respondents to grant her extraordinary pension in accordance with the Central Civil Service (Extraordinary Pension) Rules but her representation evoked no response from the respondents, let alone a favourable consideration.

7. It is noteworthy that the petitioner, who appears to be illiterate, is a resident of Village Siyang, Post Charda, District Gumla, Jharkhand and would have been hard pressed in seeking legal redressal. On failure of the respondents to do justice to her, she has been compelled to file the writ petition in this court making a prayer for issuance of writ of mandamus directing the respondents to calculate the pension payable to her towards extraordinary pension in accordance with the afore-noticed rules and to make payment with interest from the date of death of the husband of the petitioner till its realization.

8. Learned standing counsel for the respondents has painstakingly urged that the respondents were acting bona fide and that their concern with the petitioner is manifested from the fact that they have granted compassionate appointment to Shri Binod Oraon, son of the deceased. We are informed by the respondents that such appointment has been effected by an order passed on 22nd January, 2007, which is also almost seven years after the expiry of Late Shri Chamru Oraon. This appointment on compassionate basis has been effected as a welfare measure under a scheme of compassionate appointment framed by the petitioners. No special favour has been done to the petitioner and such appointment does not in any manner denigrate from the right or entitlement of the petitioner to grant of her lawful dues which included the extraordinary family pension. The compassionate appointment of the deceased soldier's son itself manifests that the respondents accepted the urgency of the needs of the family of the deceased soldier.

9. It is trite and needs no elaboration that financial payments especially in the nature of pension or extraordinary pension are required by the dependants of a deceased official for meeting their monthly requirements. Delay in effecting such payments would irreparably cause harm to such dependants as the petitioner.

10. So far as the contention that the petitioner has not made disclosure of the compassionate appointment of her son is concerned, we may note that the petitioner is an illiterate and poor lady residing in a remote village in district Gumla, Jharkhand. In any case, the factum of the engagement of the son of the deceased does not in any manner disentitle the widow to the grant of the extraordinary family pension. This is evident from the order dated 28th June, 2013 passed by the respondents finding the petitioner's claim for extraordinary pension justified.

11. A perusal of this order dated 28th June, 2013 would show that the respondents have held that the petitioner is entitled to arrears of extraordinary pension scheme w.e.f. 16th July, 2000 till date. It is evident that the same has been wrongly denied to her for no fault of hers.

12. The writ petition was listed before us for the first time on 22nd April, 2013 when we had noted that the matter is pending for a period of almost thirteen years for grant of pension and that no orders had been passed till that date. In this background, peremptory order was passed against the respondents to place

before us on affidavit the manner in which the petitioner's case for the amount of pension has been processed.

13. The respondents were directed to show cause as to why compensation should not be paid to the petitioner. In further directions, we had also directed as follows:-

xxx We shall be given a date-wise progress of the matter in the instant case. In case an order, granting or rejecting the petitioner's prayer has not been passed, the PCDA shall personally remain present on the next date of hearing.

4. In case orders stand passed and only implementation is awaited, the respondent shall ensure that the needful is undertaken before the counter affidavit is filed.

5. Liberty is given to the petitioner to file rejoinder to the counter affidavit before the next date of hearing.

6. Appropriate orders as to showing cause as to why compensation should not be paid to the petitioner shall be considered on the receipt of the counter affidavit.

14. On 17th May, 2013, we had noted that the respondents failed to render any explanation as to why it had taken over twelve years to the respondents to grant of ex gratia payment of Rs. 12,00,000/- in spite of death of her husband on 16th July, 2000 by drowning while on duty which amount was released only on 7th March, 2012. We had also noted that the respondents had failed to consider the petitioner's entitlement to extraordinary pension till the hearing on 17th May, 2013 and had only asserted a bald plea of denial in the counter affidavit to the petitioner for the same. It is obviously the passing of order dated 17th May, 2013 which has motivated the respondents to look into the matter in accordance with law and passing the order dated 28th June, 2013.

15. The petitioner became entitled to the amounts which have been paid by the respondents upon the demise of Late Shri Chamru Oraon on 15th July, 2000. The respondents are not in a position to inform us even today as to whether the amounts in terms of their own order dated 28th June, 2013 have actually been released to the petitioner till date or not. In the given facts, we are of the view that the petitioner deserves to be paid interest on the amounts which have been belatedly assessed as payable and paid to the petitioner. In view of the above, we direct as follows:-

(i) The petitioner shall be entitled to interest at the rate of 9% on the amount of Rs. 9,00,000/- paid as extraordinary pension to the petitioner w.e.f. 15th July, 2000 (date of expiry of Late Chamru Oraon) till 7th March, 2012 when the amount was paid.

(ii) The petitioner shall be entitled to interest on the amounts found due and payable to the petitioner in terms of the communication dated 28th June, 2013 with effect from the date they became due and payable till date the payment is

actually effected at the rate of 12% per annum.

(iii) The respondents shall effect the computation in terms of our above order within a period of four weeks and communicate the same to the petitioner immediately thereupon.

Copy thereof shall be filed in this court positively within a period of six weeks from today.

In case the petitioner has any grievance with regard to the same, she shall be at liberty to take appropriate legal remedy in respect thereof.

(iv) The respondents shall effect payment of arrears to the petitioner within a period of four weeks thereafter.

(v) The petitioner shall be entitled to costs which are quantified at Rs. 25,000/- which shall be paid on or before the seventh day of each English calendar month.

(vi) This writ petition is allowed in the above terms.

Dasti to parties.