

**(2013) 04 AHC CK 0095**

**In the Allahabad High Court**

**Case No : Civil Misc. Writ Petition No. 9839 of 2013**

Smt. Madarsi Devi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

**Date of Decision : 15-04-2013**

**Acts Referred:**

Workmens Compensation Act, 1923 — Section 30

**Citation :** (2013) 5 ADJ 459 : (2013) 2 AnWR 727 : (2013) 137 FLR 1022 : (2013) LLR 821

**Hon'ble Judges :** Tarun Agarwala, J

**Bench :** Single Bench

**Advocate :** Rudra Pratap Singh, for the Appellant; Ayank Mishra, C.S.C., Baleshwar Chaturvedi and Upendra Upadhyay, for the Respondent

**Final Decision :** Disposed Of

## **Judgement**

Tarun Agarwala, J.—Heard the learned Counsel for the parties.

A short counter affidavit has been filed by the District Magistrate, Lalitpur, Executive Engineer, who are also present in Court.

The present writ petition was filed seeking a writ of mandamus commanding the District Magistrate, Lalitpur to comply with the order of the Commissioner, Workmen's Compensation dated 8th April, 2010, by which a sum of Rs. 1,85,915.00/- was awarded as compensation to the petitioner along with interest @ 10 per cent. Pursuant to the said award, a letter dated 19th February, 2011 was issued by the Commissioner to the Collector praying that the amount may be recovered from the Executive Engineer of the U.P. Power Corporation Ltd., Lalitpur.

2. In spite of time being granted, no counter affidavit has been filed, and accordingly the Court, by an order dated 10th April, 2013 directed the Collector as well as the Executive Engineer to file personal affidavits and would be appear in person. The Collector has filed his affidavit indicating that an amount of Rs.

4,05,915/- has been recovered, which includes interest and the same has been sent by a bank draft dated 13th April, 2013 issued by the Panjab National Bank to the office of Commissioner, Workmen's Compensation, Gorakhpur. The Collector has justified the delay indicating that pursuant to the letter of the Labour Commissioner dated 19th February, 2011, a citation was issued on 26th May, 2012 and repeated reminders were sent to the Executive Engineer to deposit the amount, which he failed to do so.

3. On the other hand the Executive Engineer in his affidavit has submitted that he had written various letters to the Superintendent Engineer to release the amount so that the same may be deposited before the Commissioner, Workmen's Compensation, and thereafter, an appeal could be filed u/s 30 of the Workmen's Compensation Act. Since necessary direction was not issued by the superior authority, the amount could not be deposited.

4. In the light of the aforesaid, it is clear that the husband of the petitioner, who had died during the course of his employment was made to run from pillar to post for justice and for recovery of the amount. It is apparently clear that the Collector and his agents have adopted a very soft stand in recovering the amount from the respondent who is an instrumentality of the State. It took 15 months for the Collector to issue a citation and, in spite of the citation being issued, no effective measures were taken to recover the amount under the provisions of U.P. Z.A. & LR Act. Such lackadaisical attitude and practice adopted by the Collector is totally deprecated. It is a quite apparent that dual standards are being adopted for recovery of amount against instrumentalities of the State on one hand and against private persons on the other hand. The fact remains that the petitioner, who has an order in her favour is unable to reap the benefit of the award.

5. A curious stand was adopted by the learned Standing Counsel namely that the petitioner has not suffered for the delay in the recovery of the amount inasmuch as, up-to-date interest has been recovered from the Executive Engineer. In the opinion of the Court, the amount has to be recovered immediately so that the benefit can be reaped by the petitioner at the earliest. If there is no harvesting of the crop, the crop rots in the field and becomes inedible. Further the inflation is so high that the value of money depreciates day by day. The value of the money, which was awarded in the year 2010 has been reduced to a large extent on account of inflation. The rate of interest awarded does not commensurate with the high rate of inflation.

6. In the light of the aforesaid, this petition is disposed of, since the amount has now been recovered and has been sent to the Commissioner Workmen's Compensation, it would be open to the petitioner to apply before the Commissioner Workmen's Compensation for release of amount.

7. Since there has been a dereliction of duty in recovering the amount, a cost of Rs. 20,000/- each shall be paid by the Collector as well as by the Executive

Engineer, respondent Nos. 4 and 5 respectively to the High Court Legal Services Authority within two weeks from today. Let a copy of the order be sent by the Registry to the Secretary, High Court Legal Services Authority for necessary information and compliance. If the amount is not deposited within the aforesaid period, the Secretary, High Court Legal Services Authority will place the order before the Registrar General of this Court for recovery of this amount as arrears of land revenue.