
(2002) 11 JH CK 0003
In the Jharkhand High Court
Case No : Writ Petition (S) No. 4368 of 2001

Smt. Shanti Prasad	Vs	APPELLANT
State of Jharkhand and Others		RESPONDENT

Date of Decision : 11-11-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 96 FLR 907

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Nilesh Kumar and K. Shankar, for the Appellant; R.S. Mazumdar, G.A., M. Palit, J.C. to G.A., A. Allam and Pankaj Kumar, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—The petitioner has challenged the order contained in Resolution No. 1343 dated 18th May, 2001, whereby and

whereunder, the State of Bihar ordered to recover a sum of Rs. 3,98,398.86 from the amount as was due to the petitioner's husband Late Gauri

Shankar Prasad.

2. The case of the petitioner is that her husband Late Gauri Shankar Prasad was a Range Officer under the State of Bihar, who worked to the

satisfaction of the authorities for more than 25 years. A criminal case was lodged against him in the year 1991 alleging some irregularities

committed by petitioner's husband while posted at Sasaram. The husband of the petitioner was suspended during the pendency of the criminal

case, whereinafter three increments were withheld, but again petitioner's husband was suspended on 28th July, 1993 for similar allegations.

Subsequently, her husband died before completion of the departmental

proceeding and the criminal case as was lodged against him. Thereafter, the Respondent State of Bihar issued the Impugned order of recovery from her deceased husband vide Resolution No. 1343 dated 18th May, 2001.

3. The Respondents have not disputed the facts aforesaid. It is alleged that the service career of petitioner's husband was not clear who was

punished several times for different charges, including misappropriation of Government money. However, no specific detail of any charge sheet or

punishment order has been given in the counter affidavit, nor copy of any such order has been enclosed.

4. It appears from the counter affidavit that a criminal case bearing G.R. No. 1465/88 (T.R. No. 671/2000) was lodged against the petitioner's

husband on the allegation of misappropriation of Government money and other charges, but it was closed due to the death of the petitioner's

husband who died on 12th September, 1999.

A departmental proceeding was initiated against him, vide Memo No. 4711 dated 3rd September, 1999 for similar charge for which FIR was

lodged and one Shri Amar Prasad, I.F.S. was appointed as the Enquiry Officer. The said departmental proceeding never reached its finality.

Earlier, six increments of petitioner's husband were stopped. They were released, vide Resolution No. 2434 dated 2nd June, 1992, as mentioned

at Paragraph-17 to the counter affidavit. Though the departmental proceeding was not completed even after six years of its initiation but because of

death of petitioner's husband the Government of Bihar decided to recover the amount of Rs. 3,98,398.86, vide impugned Resolution dated 18th

May, 2001.

5. As the Resolution No. 1343 dated 18th May, 2001 is not based on any enquiry report and has been issued in complete violation of rules of

natural justice and no amount can be recovered from the death-cum-retiral benefits to which the petitioner is entitled on the death of her husband,

the impugned Resolution No. 1343 dated 18th May, 2001 is set aside.

6. The Respondent State of Bihar are directed to pay the petitioner the death-cum-retiral benefits to which she is entitled without recovering the

amount of Rs. 3,98,398.86, within a period of three months from the date of receipt/production of a copy of this order.

7. The writ petition is allowed with the aforesaid observations and directions.