
(2017) 10 MAN CK 0003
In the Manipur High Court
Case No : 333 of 2012

Smt. Th. Leirang Devi

APPELLANT

Vs

The National Hydro Power Corporation (NHPC) Limited, &
Ors.

RESPONDENT

Date of Decision : 24-10-2017

Acts Referred:

Constitution of India, Article 14 -
Appointment of Commission to inquire into and report on the administration of
autonomous districts and autonomous regions

Citation : (2017) 10 MAN CK 0003

Hon'ble Judges : Kh. Nobin Singh

Bench : Single Bench

Advocate : Th. Khagemba, N. Ibotombi, S. Samarjeet

Final Decision : Allowed

Judgement

1. Heard Shri Th. Khagemba, the learned counsel appearing for the petitioner; Shri N. Ibotombi, the learned Sr. Advocate appearing for the respondent Nos. 1 to 4 and Shri S. Samarjeet, the learned CGC appearing for the respondent Nos. 5, 6 and 7.

2. By the instant writ petition, the petitioner has prayed for issuing a writ of Mandamus or any other appropriate writ directing the respondents to allow her to enjoy the family pension with arrears for the service rendered by her late husband at the Loktak Power Station under National Hydro Electric Power Corporation within a stipulated period. This matter can be said to be one of the unfortunate cases in which the petitioner has been denied family pension for more than two decades.

3. According to the petitioner, she is the legally wedded wife of Late Shri Thangjam Birendra Singh who was serving under the National Hydro Electric Power Corporation (hereinafter referred to as "the NHEPC") under Employee No. 151373-T and had died on 24-02-1996 leaving behind him his wife and children,

while being posted at the Loktak Power Station, Manipur. As regards the death of her husband, the Moirang Municipal Council issued a certificate on 12-03-1996 certifying the death of her husband. Since the respondents failed to grant family pension and other pensionary benefits to the petitioner even though her husband had died in the year 1996, the petitioner and her family members have been facing a lot of untold hardship. The claim of the petitioner was registered by the authorities concerned as the Claim No. 911517834.

4. Having learnt that the NHEPC had already settled the claim of the petitioner along with the claims of other similarly situated incumbents, the petitioner submitted a representation dated 08-12-2003 to the Manager (EPS Cell), NHPC Ltd., P&A Wing requesting for allowing her to enjoy the family pension for the service rendered by her husband. On 30-01-2004 the Senior Manager (E&A), NHEPC Ltd. addressed a letter to the Regional P.F. Commissioner (Pension) 8th-9th Floor, Mayur Bhawan, Cannaught Place, New Delhi informing that many persons including the petitioner have not been getting their pension, although their cases had already been settled by the competent authorities and accordingly, the Regional P.F. Commissioner (Pension) was requested to get pension payment order issued in favour of the petitioner and other persons. Thereafter, the Personal Officer (EPS), NHEPC Ltd. addressed a letter dated 24-03-2004 to the Senior Manager (P&A), Loktak Power Station, Manipur, regarding the subject matter, stating that the claim of the petitioner had already been settled by the RPFC, Delhi as intimated by RPFC, Faridabad vide its letter dated 27-02-2004.

5. In order to quicken the process of payment of pension, on 28-10-2004 the petitioner submitted a representation to the Regional Provident Fund Commissioner, Employees Provident Fund Organization, Regional Office, Haryana requesting for grant of permission to submit a new/ fresh family pension bill, wherein the petitioner highlighted the fact and circumstances of the case, so as to enable her to draw the amount of pension within a short period. The said representation was followed by various reminders dated 17-03-2005, 25-09-2006, 27-08-2008 and 08-02-2010 but to no effect. Thus, the petitioner has not been given family pension for the service rendered by her husband till date and being aggrieved by the inaction on the part of the respondents, the instant writ petition has been filed by the petitioner on the inter-alia grounds that the actions of the respondents in not allowing the petitioner to enjoy the family pension for the service rendered by her husband even though the concerned authorities had settled the same way back in 2001 are arbitrary, mala fide and illegal.

6. An affidavit on behalf of the respondents has been filed raising preliminary objection as regards the maintainability of the writ petition for the reason that the writ petition is bad for non-joinder of necessary party namely, the Regional Provident Fund Commissioner. In the said affidavit, it has also been stated that the respondents have already sent the relevant papers to RPFC, New Delhi and it

is for the RPFC to settle the family pension. The correspondences that have been made between the respondents and the RPFC will show that there is no delay on the part of the respondents. The fact that the petitioner is taking up the matter with the RPFC directly for releasing the family pension which is the right forum to settle the family pension, is the right approach.

7. During the pendency of the writ petition, the petitioner moved an application for impleadment of some more respondents which was allowed on 20-12-2016 with the direction that (a) the Regional Provident Fund Commissioner ((Pension), EPFO Complex, Plot No.23, Sector-23, Dwarka, New Delhi-110075; (b) the Regional Provident Fund Commissioner, Bhavishya Nidhi Bhawan, Sector- 15A, Faridabad-121007 (Haryana) and (c) the Regional Provident Fund Commissioner, Employees Provident Fund Organisation, Regional Office, North east Region, GS Road, Guwahati-781005 (Assam) be impleaded as party respondent Nos. 5, 6 & 7. Despite number of opportunities being given to the respondent Nos. 5, 6 & 7, no counter was filed on their behalf and in view of the law laid down by the Hon'ble Supreme Court in a catena of decisions, the averments made in the petition shall be deemed to have been admitted by them.

8. From the correspondences on record and in particular, the letter dated 31-01-2004, it is evident that the claim of the petitioner for payment of family pension had been settled by the RPFC, Delhi long back ie., on or before 02-03-2001 and this fact has not been denied by the respondents and in particular, the respondent Nos. 5, 6 & 7. If that be the cases, there is no reason as to why the family pension be denied to the petitioner. The respondents being governmental institutions, ought to act fairly and reasonably, failing which their actions or inactions would be rendered unfair and unreasonable being violative Article 14 of the Constitution. This is what has happened exactly in the present case and the respondents have utterly failed to discharge their duties. The respondents have shown their insensitiveness to the issue wherein a widow has been waiting eagerly for payment of family pension for more than two decades. This is unfortunate and is nothing but harassment. It is not the case of the respondents that the petitioner is not entitled to family pension in law and had it been their case, the petition ought to have been dismissed on the first day itself without notice being issued to them. The petitioner has suffered a lot on account of the lapses and the callous attitude being shown to by the respondents.

9. For the reasons stated hereinabove, the instant writ petition is allowed with the following directions:

(a) The respondents and in particular, the respondent Nos. 5, 6 & 7 shall compute the family pension and retiral benefits from the day the petitioner's husband had died till date within sixty days from the date of receipt of a copy of this judgment and order and pay the same to the petitioner within fifteen days thereafter with interest thereon @ Rs. 6% per annum;

(b) The respondents and in particular, the respondent Nos. 5, 6 & 7 shall

continue to pay family pension to the petitioner thereafter regularly in accordance with law. There shall be no order as to costs.