

(2013) 10 DEL CK 0336
In the Delhi High Court
Case No : WP (C) No. 4196 of 2011

Sumitra Devi

APPELLANT

Vs

Union Of India and Another

RESPONDENT

Date of Decision : 23-10-2013

Acts Referred:

Citation : (2013) 10 DEL CK 0336

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : A.A. Aron, for the Appellant; Kumar Rajesh Singh, for the Respondent

Final Decision : Disposed Off

Judgement

V.K. Jain, J.—Late Shri Prem Prasad, husband of the petitioner, was employed with Northern Railways, Bikaner Division as a class IV employee. He was removed from service on 03.04.1989 and he passed away on 09.09.2008. After his death, PF amount of Rs. 3421/- and CGIS amount of Rs. 458/- was paid to his wife (petitioner herein). Rest of the retiral dues of late Shri Prem Prasad have not been paid so far. Being aggrieved for non-payment of such dues, the petitioner is before this Court seeking the balance amount of gratuity, provident fund and other amounts pertaining to Late Shri Prem Prasad. She is also seeking a direction for payment of pension to her. In their counter-affidavit, the respondents have stated that the petitioner never approached Railway Administration for settlement of dues of her late husband. It is further stated in the counter-affidavit that as per Manual of Railway Pension Rules (MRPR), para 309, pension, family pension and gratuity is not admissible to a person who is removed from service.

2. Para 309 of the Manual Railway Pension Rules reads as under:

309. Removal or dismissal from service.—No pensionary benefit may be granted to a Railway servant on whom the penalty of removal or dismissal from service is imposed; but to a Railway servant so removed or dismissed, the authority who

removed or dismissed him from service may award compassionate grant(s)-corresponding to ordinary gratuity and/or death-cum-retirement gratuity-, and/or allowances-corresponding to ordinary pension-, when he is deserving on special consideration; provided that the compassionate grant(s) and/or allowance awarded to such a Railway servant shall not exceed two-thirds of the pensionary benefits which would have been admissible to him if he had retired on medical certificate.

3. It would, thus, be seen that the competent authority has a discretion whether to grant or refuse pensionary benefits of a Railway servant on whom penalty of removal from service is imposed. However, even in case of such a Railway servant, the authority which removes him from service is competent to award compassionate grants corresponding to ordinary gratuity and/or death-cum-retirement gratuity benefits allowances corresponding to ordinary pension when he deserves such grant on special considerations. However, such compassionate grant and/or allowance cannot exceed 2/3rd of the pensionary benefits which would have been admissible to late Shri Prem Prasad if he had retired on medical certificate.

4. This is not the case of the respondents that a considered view was taken by the competent authority whether to grant pensionary benefit to late Shri Prem Prasad or not. In my view it was obligatory for the competent authority to take a view whether to grant or refuse pensionary benefits to late Shri Prem Prasad. In the event of the competent authority deciding to refuse pensionary benefits to him, it has to further consider whether to grant gratuity and allowances corresponding to ordinary pension in terms of the aforesaid paragraph or not. Such an exercise has not been undertaken. In these circumstances the writ petition is disposed of with the following directions:

i. The competent authority shall decide within six (6) weeks from today, whether to grant pensionary benefits consequent to removal of Shri Prem Prasad from service or not.

ii. If the competent authority decides to grant pensionary benefits in terms of para 309 of MRPR, the amount of such benefits shall be worked out and paid to the petitioner within four (4) weeks thereafter along with simple interest on that amount @ 10 per cent per annum from the date of his removal from service. If the competent authority decides not to grant pensionary benefits consequent to removal of Shri Prem Prasad from service it shall consider awarding of compassionate grants to the petitioner in terms of para 309 of the Manual of Railway Pension Rules and if such a grant is made, the amount of the grant shall be worked out and paid to the petitioner within four (4) weeks from the date of the decision along with simple interest on that amount @ 10 per cent per annum, from the date of his removal from service.

iii. A cheque bearing No. 113917 dated 10.11.2011 in favour of the petitioner drawn on State Bank of Bikaner & Jaipur, Public Park Branch, Bikaner for Rs.

458/- was given to the petitioner which she has not encashed. Another cheque will be issued to the petitioner in lieu of the aforesaid expired cheque which has been handed over to learned counsel for the respondent in Court today.

The petition stands disposed of.

Dasti under the signatures of the Court Master.