(2014) 11 PAT CK 0064

In the Patna High Court

Case No : CWJC No. 4067 of 2013

Sunarika Devi APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 05-11-2014

Acts Referred:

Citation : (2015) 1 PLJR 888

Hon'ble Judges : Shivaji Pandey, J

Bench : Single Bench

Advocate : Sunil Kumar Ravi, Advocates for the Respondent

Judgement

Shivaji Pandey, J.—Heard learned counsel for the petitioner and the State. In the present case, husband of the petitioner served in the Health Department, superannuated on 31st December, 2003 and ultimately he died on 25th December, 2014.

2. During the pendency of this writ petition, petitioner has been paid the amount of Group Insurance amount Rs. 41,000/-, Unutilized leave Rs. 55,836/- and Gratuity Rs. 1,28,552/-.

3. In the present case, limited grievance has been raised that the retiral dues, such as, pension, gratuity and GPF amount has been paid to the petitioner in the years 2013 and 2014 and, as such, she is also entitled to interest over and above the principal amount paid.

4. Counsel for the State has submitted that the husband of the petitioner during his lifetime did not apply for any retiral dues and after his death, it is the petitioner who applied for the same and, as such, petitioner is not entitled to interest as claimed by her. He has further submitted that the petitioner is not entitled to interest over GPF amount as per GPF Rule which shows that the employee concerned will be entitled to statutory interest only when he/she applies for the same within six months from the date of superannuation but in the present case petitioner applied on 19th July, 2013 and, as such, she is not

entitled to interest.

5. In reply counsel for the petitioner submits that the petitioner cannot be deprived of the interest of GPF as the money was deducted from the salary of husband of the petitioner and was kept by the State Government which always generated interest. In support of his claim, counsel for the petitioner has relied on Kedar Nath Jha Vs. The Deputy Commissioner and Others, State of Bihar and Another Vs. Kedar Nath Jha and Others, and also on D.D. Tewari Vs. Uttar Haryana Bijli Vitran Nigam Ltd., .

6. Having considered the rival contention of the parties, it is clear that the husband of the petitioner did not apply during his lifetime and after his death, petitioner applied for the retiral benefits so much so the employee concerned was required to file the appropriate application either at the time of retirement or within six months of retirement. This Court is of the view that the petitioner is not entitled to interest over and above whatever has been paid to her as pension and gratuity. So far GPF amount is concerned, it was lying with the Government, the Government cannot say that the money was not earning any interest. If the Government is keeping money of an employee generating interest, in that circumstance the State cannot take a stand that it will pay only the actual amount and not the interest.

7. This Court directs the respondent State to pay the statutory interest on principal amount of GPF till the actual payment has been made to the petitioner and this Court does not find favour in granting interest on pension and gratuity amount. The State is directed to calculate and pay the statutory interest on GPF amount to the petitioner till last payment made to her within a period of six months from the date of receipt/production of copy of this order. This petition is partly allowed.

