
(2007) 03 PAT CK 0018
In the Patna High Court
Case No : L.P.A. No. 471 of 2006

The Union of India and Others

APPELLANT

Vs

Smt. Kaushalya Devi

RESPONDENT

Date of Decision : 14-03-2007

Acts Referred:

Citation : (2007) 3 PLJR 296

Hon'ble Judges : Narayan Roy, J;J.N. Singh, J

Bench : Division Bench

Advocate : S.N. Pathak, for the Appellant; S.P. Mukherjee, Satish Kumar Agarwal and Binay Kumar, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Counsel for the parties. This Letters Patent Appeal has been filed against order dated 8.9.200 passed by a learned single Judge of this Court in C.W.J.C. No. 3672 of 2001, whereby and whereunder a show-cause notice issued to the writ petitioner dated 18th October, 2000 by the Union of India was set aside and direction was issued to continue the pension in terms of its decision taken in the year 1996.

2. It appears that the husband of the writ petitioner Smt. Kaushalya Devi was granted Swatantrata Sainik Samman Pension (hereinafter to be referred to as "SSS Pension") with effect from 31st March, 1982 and he received the same up to 1994, and thereafter he died. The writ petitioner thereafter applied for continuation of the pension to her, which was granted by the Union of India with effect from 4th September, 1996. But, in the meantime, by virtue of the show-cause notice issued by the Union of India dated 18th October, 2000, it sought to recover from the writ petitioner the pension already paid to her husband on the ground that she applied for this in September 1996.

3. It is not in dispute that SSS pension was already granted to the husband of the writ petitioner with effect from 31st of March, 1982 and he received the

same till his death up to 1994. It is also not in dispute that after death of the husband of the writ petitioner direction was issued by the Union of India for continuation of the pension with effect from 4th September, 1996.

4. The learned single Judge of this Court faced with this piquant situation, as referred to above, allowed the writ petition and set aside the notice issued by the Union of India dated 18th October, 2000.

5. Mr. Pathak, Learned Counsel for the appellant, submits that the husband of the writ petitioner was not entitled to get SSS Pension with effect from 31st March, 1982, rather he was entitled to get the same from the date of his application and passing of the order by the Union of India.

6. The submission made by Mr. Pathak, Learned Counsel for the appellant appears to be wholly misconceived, inasmuch as during life time the recipient of SSS Pension was never noticed to refund the pension already paid on the grounds, which have been made in this appeal and only after death of the recipient of such grant show-cause notice was issued to the writ petitioner at a belated stage, when she also started getting pension on account of death of her husband.

7. The approach of the learned single Judge of this Court, therefore, cannot be said to be bad either in law or on facts. This appeal, in this view of the matter, is dismissed with litigation costs of Rs. 10,000/- (rupees ten thousand) payable to the writ petitioner Smt. Kaushalya Devi.