(2010) 05 JH CK 0001

In the Jharkhand High Court

Vidyanand Singh APPELLANT

Vs

The State of Jharkhand and Others RESPONDENT

Date of Decision : 26-05-2010

Acts Referred:

Citation : (2010) 05 JH CK 0001

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—I.A. No. 1784 of 2010 has been filed on behalf of the petitioner praying therein for modification of the order dated 23.04.2010, whereby a cost of Rs. 1,000/- has been imposed on the petitioner and also for exemption of the cost.

2. It is sought to be explained in the Interlocutory Application that after the retirement of the employee on 31.08.2000, the provisional pension was fixed and used to be paid to him. The claim for allowing second time bound promotion with effect from 21.07.1091 and the difference of salary pursuant to the enhanced pay after the second time bound promotion amounting to Rs. 8,484/- was paid to the wife of the deceased employee on 08.11.2008 and further arrears to the extent of Rs. 21,512/- were also paid on the same day to her.

3. It is further explained that pension of the employee was finalized on 27.03.2009 and arrears arising from the pensionary benefits and gratuity benefits were paid by the Accountant General, after issuing the authority slip to the wife of the deceased employee. It is also explained that since the employee had died, therefore, the family pension to the extent of Rs. 3,090/- has also been fixed and it is being paid regularly to the widow of the deceased employee since 01.07.2008.

4. Counsel for the Respondents submits that there was apparently a communication gap between the wife of the deceased employee and the counsel for the petitioner which has led to a confusion, and creating an impression in the

mind of this Court that in spite of repealed orders, the retiral dues have not been paid to the petitioner, whereas the fact of the matter is that the retiral dues was fully paid by 08.11.2008 itself and the arrears of pension have also been paid to the wife of the deceased employee.

5. Having gone through the entire statements, I find that the final fixation of pension payable to the deceased employee was made on 27.03.2009, no explanation has been offered as to why the pension amount was not fully paid and was retained for about nine years a after the retirement of the employee. No explanation has been offered as to why gratuity benefits were also retained by the Respondents for about nine years. The explanation offered would not indicate that the statutory interest on the payable amounts for the delayed payments, was also paid along with the principal amount, to the widow of the deceased employee.

6. Counsel for the Respondents submits that it is presumed that the statutory interest has been paid. In absence of a specific statement, this Court will not entertain any such presumption.

7. As regards the prayer for modification of the order dated 23.04.2010, it appears that the cost was imposed on considering the fact that the earlier orders passed by this Court was not promptly communicated to the concerned authorities of the Respondents, thereby causing the delay in the petitioner''s claim for pension.

8. As it appears from the statements in the Interlocutory Application of the Respondents, the final pension was fixed on 27.03.2009 and the arrears arising from the pensionary benefits and gratuity benefits have been paid to the petitioner on 25.04.2010, as per receipt (Annexure-A to the I.A.), i.e. two days alter the date of order passed by this Court which has now been sought to be modified.

9. Considering the above facts, it is apparent that it was only after the order was passed on 23.04.2010 that the payments was delivered to the widow of the deceased employee, two clays later.

10. Considering the above facts and circumstances, I do not find any reason to modify the order dated 23.04.2010 or to recall the order by which the cost was imposed. Since the Interlocutory Application does not confirm as to whether the statutory interest have been paid on the delayed payments of the retiral dues of the deceased employee, the concerned authorities of the Respondents are directed to file supplementary counter affidavit by the next date, informing as to whether the amounts which have been paid to the wife of the deceased employee did also include the amount of statutory interest and if not, then the amount of statutory interest shall be computed and paid to the widow of the deceased employee by the next date. The Respondents are also directed to ensure the deposit of cost as imposed by the Court on the last date.

11. Let this case be posted on Wednesday of the 3rd week on reopening of the Courts after summer vacations.

12. Let a copy of this order be given to the counsel for the Respondents.

