

Lakhi Devi Vs The Central Coalfields Ltd. and Others

Court: Jharkhand High Court

Date of Decision: Feb. 2, 2009

Citation: (2011) 2 JCR 82

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

D.G.R. Patnaik, J.

Petitioner in this writ application, has prayed for a direction commanding upon the Respondents to pay to the

Petitioner, the C.M.P.F., Gratuity, Pension etc. and other retiral dues, which was legally payable in the account of her husband, Ganesh Bhuiyan,

who was an employee of the Respondent-C.C.L. and also for a direction to consider her case for compassionate appointment.

2. The Petitioner's husband Ganesh Bhuiyan was an employee under the Respondent-C.C.L. Admittedly, on account of some mental aberrations,

he remained traceless for a period of eight years and more. Having waited for the return of her husband, the Petitioner could not decide firmly as to

whether her husband was alive. Ultimately on the basis of the presumption that since her husband remained traceless for more than eight years

therefore it would be presumed that the husband of the Petitioner has died and thereafter, the Petitioner approached the employer, the

Respondent-C.C.L., making twin prayers, (i) for her compassionate appointment and (ii) for payment of legally payable pensionary benefits in the

account of her husband.

3. Mr. Kalyan Roy, learned Counsel for the Petitioner submits that the Petitioner's repeated representations claiming payment of the retiral dues

and for her appointment, has not been responded by the employer as yet and therefore the Petitioner is compelled to file the instant writ

application.

4. Heard the learned Counsel for the Petitioner, learned Counsel for the Respondent-C.M.P.F. as also the counsel for the Respondent-C.C.L.

5. Though no counter affidavit has been filed by the Respondents but from perusal of the annexures to the writ application, it appears that the

Petitioner's husband was employed under the Respondent-C.C.L and he had been performing his duties even since the date of his appointment in

the year 1973 and had continued to remain in employment till 28.9.2000. If this be so, the Petitioner's husband is certainly entitled to the payment

of the C.M.P.F. and other amounts of retiral benefits on the basis of his completing the qualifying period of service for such a long period. As it

appears from the submissions of the Petitioner, her husband has not been heard of ever since, the year 2000. The Petitioner has claimed herself to

be the nominee in the service records of her husband.

6. Considering the above facts and circumstances the Petitioner is directed to file a fresh representation before the concerned authorities of the

Respondent-C.C.L. along with a copy of this order, raising her claim and the grounds in support thereof and within three months from the date of

the receipt of the representation, the concerned authorities of the Respondent- C.C.L. shall take appropriate decision by passing a reasoned and

speaking order and shall effectively communicate the same to the Petitioner. If any amount of C.M.P.F., Gratuity and Pension etc. is found legally

payable in the account of the husband of the Petitioner, then the Respondents shall sanction such claims and release the payments thereof to the

Petitioner within a period of two months from the date of decision taken on the representation of the Petitioner. The Respondent-C.C.L. shall also

forward the requisite information to the Respondent-C.M.P.F. for sanction payment of the provident fund dues and pension to the Petitioner.

7. With the aforesaid observations, this writ application stands disposed of.

8. Let a copy of this order be given to the learned Counsel for the Petitioner, learned Counsel for the Respondent-C.C.L. as also the learned

Counsel for the Respondent-C.M.P.F.