

(2008) 06 JH CK 0017
Jharkhand High Court
Case No: None

Shyam Sundar Mishra and
Another

APPELLANT

Vs

The Director, Ministry of Coal,
Government of India and Others

RESPONDENT

Date of Decision: June 18, 2008

Citation: (2008) 3 JCR 421

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Judgement

Narendra Nath Tiwari, J.

The petitioners, in this writ petition, have prayed for quashing the letter No. 49017/100/2005-PRIW dated 30.6.2006 issued by the Director, Ministry of Coal, Government of India, by which the request of the petitioners for adjustment of the amount towards the contribution of the family pension out of the pension amount payable to the petitioners under Coal Mines Pension Scheme, 1998 (for short "Scheme") has been rejected.

2. It has been stated that the petitioner No. 1, who was the employee of C.C.L., was superannuated in 1999 and petitioner No. 2, who was also the employee of C.C.L., was superannuated in 2002. Earlier there was no provision for pension to the retired employees who were not covered under the said Scheme. Subsequently, provision was made by Notification No. GSR 107(E) dated 13th February, 2003 under which the petitioners were also entitled to get pension. The petitioners, for that purpose, requested the respondents to adjust the amount payable towards the Contributory Pension Scheme and from the arrears payable to the petitioners, but the respondents have arbitrarily refused the petitioners' request.

3. Learned Counsel, appearing on behalf of the respondents, contested the petitioners' claim stating, inter alia, that the pension is payable to the members of Contributory Pension Scheme, on getting the deposits at the contribution amount.

There is no provision for adjustment of the contribution towards the amount payable to the petitioners. The petitioners were directed to deposit the amount of the Contributory Pension Scheme, so that pension can be paid to them.

4. Learned Counsel, appearing on behalf of the petitioners, submitted that the petitioners are retired persons and they are not in good financial position to deposit the amount of contributory pension for getting the benefit of pension. The amount, payable by them towards Contributory Pension Scheme, can be calculated and adjusted and the balance amount of pension payable to the petitioners can be paid to them. It has been further submitted that if the same is not done, they will not get the benefit of the said scheme for want of money required to be deposited towards the contribution of the scheme of which the petitioners are members. The respondents earlier had made provision for adjustment of the arrears of contribution pension from the amount payable under the Scheme, 1998, which has been issued by the Coal Mines Provident.

5. Fund Commissioner by its circular dated 31st December, 1999. No reason has been assigned for not making the said principle/provision applicable to the request of the petitioners. The denial of pension on the ground of not depositing the arrears of pension of Contribution is, thus, arbitrary and discriminatory.

6. Learned Counsel, appearing on behalf of the CMPF, submitted that the said circular dated 31st December, 1999 provided such facility in special circumstance and the same is not of general application. The said circular is not applicable in the petitioners' case.

7. I have heard the learned Counsel for the parties and perused the facts and materials on record. By the impugned letter, the petitioners have been asked to deposit arrears of pension contribution amount as a condition for payment of pension to the petitioners. The petitioners are retired persons, they retired several years ago. The respondents have not said as to what harm or prejudice they will suffer if the request for adjustment of contribution amount of pension out of the amount of arrears of pension of the petitioners is accepted by them, particularly when a circular, to that effect dated 31st December, 1999, giving such facility to some of the retired persons was issued by them. The respondents have not clarified as to why the provision of the said circular dated 31st December, 1999 (Annexure-2) can not be made applicable to the petitioners who are also similarly situated. Learned Counsel submitted that the petitioners shall not be discriminated against and their claim, can be considered by the authorities in the light of the said circular dated 31.12.1999. The petitioners may make a fresh request to that regard before the competent authority. Learned Counsel submitted that the Commissioner, CMPF is the competent authority to consider the petitioners' request.

8. In view of the submissions made by learned Counsel and in the facts and circumstances, this writ petition is disposed of, giving liberty to the petitioners to file

representation(s), along with a copy of this order, before the Commissioner, CMPF-Respondent No. 4, making a request for adjustment of the arrears of pension contribution amount from his amount of the pension payable under the Coal Mines Pension Scheme, 1998 in the light of the circular dated 31.12.1999. If such representation(s) is/are filed, the said respondent shall consider the same and pass appropriate order, taking into consideration the said circular dated 31.12.1999, within a period of four weeks from the date of receipt of such representation.