

## **Bishwa Nath Roy Vs Central Coalfields Ltd. and Coal Mines Provident Fund, Dhanbad**

**Court:** Jharkhand High Court

**Date of Decision:** Sept. 7, 2010

**Citation:** (2011) 1 JLJR 278

**Hon'ble Judges:** Amareshwar Sahay, J

**Bench:** Single Bench

**Final Decision:** Allowed

### **Judgement**

@JUDGMENTTAG-ORDER

Amareshwar Sahay, J.

Heard the parties.

2. The Petitioner, who retired from the post of Deputy Chief Mining Engineer, Barkakana area of C.C.L., moved this Court earlier in W.P.S. No.

6187 of 2007 for direction to the Respondents C.C.L. to pay him the retiral dues, i.e. Gratuity, Earned Leave and Sick Leave Encashment, Leave

Traveling Allowance, Underground Allowances, Excess Deduction of Provident Fund, Coal Mines Provident Fund and arrears of pension as well

as proper fixation of pension, which according to the Petitioner was not fixed correctly.

The said writ petition was disposed of by order dated 17/09/2008 (Annexure-16) by giving liberty to the Petitioner to file a fresh representation

giving details of his claims and the Respondent C.C.L. as well as C.M.P.F., were directed to consider the claim of the Petitioner and pass an

appropriate order in accordance with law and, thereafter, to pay the legal dues to the Petitioner with statutory interest within a period of two

months. The operative portion of the aforesaid order is quoted herein below:

Considering the said submissions, this writ petition is disposed of giving liberty to the Petitioner to file a fresh representation before concerned

authorities of C.C.L. and C.M.P.F. giving details of his claim. On receipt of the representation the Respondent Nos. 1 and 3, who are said to be

the concerned authorities of the C.C.L. and C.M.P.F. respectively shall consider the Petitioner's claim of their respective concern and pass

appropriate order in accordance with law within a period of six weeks from the date of receipt of the representation. If the Petitioner's claim or

one or other claim is/are found genuine, the monetary benefits thereof must be paid to the Petitioner with statutory interest within a period of two

months thereafter, if the amount payable to the Petitioner is/are not paid within the said period, the same shall carry an interest at the rate of 10%

per annum till final payment in addition to the amount of statutory interest. If the Respondents intend to refuse any claim, they shall pass a reasoned

order, if necessary after hearing the Petitioner, and communicate the same in writing to the Petitioner.

3. Pursuant to the aforesaid order, the Petitioner made representation before the Chairman-cum-Managing Director, C.C.L. and Regional

Provident Fund Commissioner, C.M.P.F. Ranchi. According to the Petitioner, he filed a chart showing the claim of amount under various heads,

with supporting documents in connection with the said claim. The grievance of the Petitioner is that though his representation was disposed of by

the Chairman-cum-Managing Director, C.C.L. vide order dated 02/02/2009, contained in Annexure-18 but the said orders suffers from the

following serious infirmities:

(a) In the impugned order, the claim of interest has wrongly been mentioned as 18% though the Petitioner claimed statutory interest at the rate of

10%.

(b) The claim for leave traveling allowance, retiring traveling allowance, underground allowance and excess deduction of provident fund by CCL

has not been considered and against earned leave and sick leave encashment, the same has wrongly been partly allowed.

(c) No order for payment of amount of Rs. 1, 79,068.40/-has been passed.

(d) No order has been passed on the point of interest and the amount of Rs. 1,79,068.40 has been wrongly sought to be adjusted against illegal

demand of panel rent and the Petitioner has wrongly been directed to deposit a sum of Rs. 7,97,568.48/-.

4. Similar is the grievance of the Petitioner with regard to the order passed by the Regional Provident Fund Commissioner, Ranchi contained in

Annexure-19 that after rejecting the entire claim of the Petitioner only an amount of Rs. 1,47,334/- has been paid without giving any detail as to

under which heads the said amount has been paid. It is also stated that the total pensionable service has wrongly been calculated by the C.M.P.F.

to be 17 years in place of actual of 18 years. The calculation by the Respondents suffers from errors and, accordingly, the entire calculation of

pension of the Petitioner has wrongly been fixed at Rs. 1655/- which ought to have been fixed at Rs. 1715/-p.m.

5. From bare perusal of the impugned order, contained in Annexure-18 and 19, passed by the Chairman-cum-Managing Director, C.C.L. and

Regional Provident Fund Commissioner, C.M.P.F., Ranchi, it is appears that the same are not in conformity with the orders and directions passed

by this Court in the earlier writ petition, filed by the Petitioner, wherein it was specifically stated that If the Petitioner's claim of one or other claim

is/are found genuine, the monetary benefits thereof must be paid to the Petitioner with statutory interest within a period of two months thereafter

and If the Respondents intend to refuse any claim, they shall pass a reasoned order, if necessary, after hearing the Petitioner, and communicate the

same in writing to him.

As it appears from Annexure- 18 and 19 that the Respondents have neither given any chance to the Petitioner for hearing nor they have assigned

reasons for rejecting one or the other claim of the Petitioner.

6. This Court sitting in writ jurisdiction cannot calculate the amount of retiral dues of the Petitioner, which is required to be thoroughly gone into by

the concerned Respondents and it is for them to consider each and every claim of the Petitioner and to take a decision. Since I have already found

above that the impugned orders contained in Annexure-18 and 19 are not in conformity with the orders and directions by this Court earlier in WPS

No. 6187 of 2007 and, therefore, after setting aside the orders passed by the Chairman-cum-Managing Director, C.C.L. and Regional Provident

Fund Commissioner, C.M.P.F., Ranchi, dated 02/02/2009 and 15/01/2009 respectively, contained in Annexure- 18 and 19, the matter is

remanded back to them for passing a fresh order considering each and every claim of the Petitioner mentioned in his representation already filed

and, thereafter, to pass a reasoned order in accordance with law within a period of two months from the date of receipt/production of a copy of

this order.

With these observations and directions, this writ petition stands disposed of.