

(2010) 02 JH CK 0022

Jharkhand High Court

Case No: None

Rewa Verma

APPELLANT

Vs

The Accountant General and
Others

RESPONDENT

Date of Decision: Feb. 1, 2010

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

D.G.R. Patnaik, J.

Heard counsel for the parties.

2. The petitioner has prayed for a direction upon the respondents to fix the family pension payable to her on the basis of the last pay drawn by her deceased husband.

3. It appears from the rival submissions of the learned Counsel for the parties, that the petitioner's husband was employed under the respondents on the post of Supply Inspector. He retired from service, where-after his pension was fixed. On the date of his retirement, the scale of his pay as fixed earlier, was Rs. 10,300/- and accordingly, his pension was fixed provisionally. It was however detected subsequently on being pointed out by the office of the Accountant General, that the scale of pay which was fixed for the petitioner, was in fact the scale applicable to the post of Supply Officer, whereas the petitioner being a Supply Inspector, his scale of pay was lesser than what was erroneously fixed.

4. Pursuant to the detection of the error, the respondent authorities had re-fixed the scale of the petitioner's deceased husband and had proceeded to recover the excess paid amount.

However, when the petitioner moved this Court, a direction was issued to the respondents restraining them from making any recovery of the purported excess paid amount.

5. Nevertheless, the respondents having the liberty to rectify the error and to re-fix the scale, had re-fixed the scale of the petitioner's deceased husband in the pay scale of Rs. 5000-8000 and accordingly, the family pension payable to his widow, has been refixed.

6. The petitioner's claim is that the family pension should have been fixed on the basis of the last pay drawn by her deceased husband. This claim of the petitioner is not tenable in view of the fact that the scale of pay on which her deceased husband had drawn his last paid salary, was not admissible to him and it was erroneously fixed. On detection of such error, the respondents had the right to correct the error. The same was corrected and therefore, her claim for payment of pension on the higher scale, cannot be allowed. Since upon fixation of appropriate pay scale, family pension has been fixed in accordance with the Rules, the petitioner cannot therefore claim for higher amount of pension than what has been rightly fixed. There being no merit in this writ application, the same is dismissed.