

(2014) 08 JH CK 0024
Jharkhand High Court
Case No: W.P. (S) No. 2543 of 2011

Anuradha Gupta

APPELLANT

Vs

The State of
Jharkhand

RESPONDENT

Date of Decision: Aug. 21, 2014

Citation: (2014) 143 FLR 382 : (2014) 4 JLJR 164

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Anil Kumar Jha, Advocate for the Appellant; Yasir Arafat, J.C. to Sr. S.C. II and
Vaibhav Kumar, Advocate for the Respondent

Judgement

Aparesh Kumar Singh, J.

Heard learned counsel for petitioner, State and the Private Respondent. Petitioner No. 1, Anuradha Gupta is the second widow of late Dr. S.N. Gupta and petitioner No. 2, Ujwal Prakash is the son born out of the said wedlock. The private respondent No. 6, Smt. Shakuntala Devi is the first wife of late Dr. S.N. Gupta, which is not in dispute as per the statement made in para 21 of the writ petition itself. The present petitioners had earlier approached this Court in W.P.S. No. 5291 of 2005 seeking death cum retiral dues of the deceased employee.

2. A reasoned order was passed by the Secretary, Health Department Government of Jharkhand on 13.9.2007(part of Annexure-8 series) in which the case of the petitioner and the private respondent No. 6 were both considered. As per the said order the claim for G.P.F of petitioner No. 1 was forwarded by the Principal, Patliputra Medical College, Dhanbad through letter dated 22.11.2002 to the competent authority, Director Health Services, Patna for approval. In respect of the claim of pension gratuity and earned leave, it was indicated that relevant documents an details for processing the said claim had not been received. In respect of group insurance amount, it was stated that since the deceased has not deposited his contribution from March 1996 till his death in May 1997, the principal amount with

interest payable under the Group Insurance Rule 1979 would be paid for which sanction was accorded to the Principal Patliputra Medical College, Dhanbad.

3. Thereafter, in view of the said reasoned order dated 13.9.2007, the contempt petition preferred by the petitioner being Cont. (Civil) Case N(sic) 397 of 2006 was disposed of vide order dated 12.10.2009(part (sic) Annexure-8 series). Petitioner, however has challenged the said reason(sic) order, though it did not straightway denied most of the claim of the petitioners. They have also sought payment of admissible death cum retiral dues; Leave Encashment; G.P.F amount; Gratuity; Group Insurance and Family pension to the petitioners.

4. According to the respondent- State, petitioners" claim for G.P.F amount has been forwarded to the Director-in-Chief, Health Services, Bihar who is competent authority to sanction the G.P.F amount. The Group Insurance amount has been sanctioned vide Government order dated 13.9.2007 and the bank drafts of admissible amount has been issued in favour of the petitioners, who have not yet collected the same and also left their house at Shukla Colony, Hinoo where the bank drafts were sought to be delivered. In respect of the claim of un-utilized earned leave, on the basis of succession certificate issued by the Civil Judge, Senior Division, Varanasi to the respondent No. 6, Smt. Shakuntla Devi, the first wife of the deceased, the case of respondent No. 6 has already been forwarded to the Accountant General, Jharkhand for necessary payment orders through office order dated 21.6.2011. Therefore petitioner is not entitled to the said benefit. Further as per the Finance Department, Government of Bihar resolution No. 10059/F dated 6.9.1996 Annexure-A only the first wife of the deceased Government servant Smt. Shakuntla Devi is entitled to pensionary benefits till she is alive. During the life time of the first wife, the petitioner No. 1, Anuradha Gupta will not be entitled to family pension though the child born out of the second wife would be entitled to family pension during his minority.

5. In the wake of aforesaid stand of the respondent- State, it i(sic) therefore evident that rival claim of the petitioners and the private respondent have been duly considered. However, if the admissible claim towards the G.P.F have not been paid to the petitioners, they ma(sic) approach the respondent No. 4, the Director-in-Chief, Health Service: State of Bihar who shall release the same, if there is no leg; impediment within a period of 8 weeks from the date of receipt of the copy of this order along with petitioners" representation. Petitioners are also at liberty to collect the group insurance amount from the competent authority as the same has remained unpaid because of lapses of the petitioners themselves. The competent authority under the respondent-State of Jharkhand would release the admissible group insurance amount, if the petitioners approach him within a reasonable time.

6. Further the respondents should release the leave encashment amount and family pension in favour of the respondent No. 6, Smt. Shakuntala Devi, who is said to be the first wife of the deceased employee within a period of 8 weeks from the date of

receipt of the copy of this order along with statutory interest, if any.

7. Learned counsel for the petitioners submit that petitioner No. 2, Ujwal Prakash is entitled to the proportionate share of the family pension till he attains majority. Accordingly, petitioner No. 2 is at liberty to approach the competent authority under the Health Department who may determine the proportionate share of the petitioner No. 2 towards family pension of the deceased employee within a reasonable time. So far as the claim for gratuity amount is concerned, the competent authority under the respondent, Health Department, Govt. of Jharkhand would consider the same and release the admissible amount in favour of the rightful claimant in accordance with the Rules and Circular prevalent in that regard within a reasonable time, if not released by now. The writ petition is disposed of in the aforesaid manner.