

(2011) 08 MAD CK 0205

Madras High Court

Case No: Writ Petition No. 6883 of 2009

Mrs. Sarojini Behum

APPELLANT

Vs

The Chairman, Nuclear Power
Corporation of India Ltd. and
The Senior Manager (HR)
Nuclear Power Corporation of
India Ltd. (A Government of
India Enterprises)

RESPONDENT

Date of Decision: Aug. 19, 2011

Hon'ble Judges: K. Chandru, J

Bench: Single Bench

Advocate: S.T. Varadarajulu, for the Appellant; V. Vijaya Shankar, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K. Chandru, J.

These three Petitioners are respectively the wives of employees working in the first Respondent Corporation.

2. In all the three writ petitions, the prayer of the Petitioners was to set aside the order passed by the second Respondent and for a direction to pay Rs. 5 lakhs as exgratia given to the other dependents of the deceased employees in the second Respondent Corporation, as per the new scheme.

3. The writ petitions were admitted on 18.04.2009. Pending the writ petitions, this Court by order dated 5.10.2010 dismissed the application for direction to pay 50% of the Rs. 5,00,000/- as ex-gratia.

4. On notice from this Court, the Respondents have filed counter affidavit in each of the writ petition dated 11.09.2009.

5. The contention made by Mr. S.T. Varadarajulu, learned Counsel for the Petitioner that the NPCIL had adopted a new scheme for grant of payment of exgratia to the families of NPCIL employees, who die while in service and missing employees where ever it is considered justifiable by the NPCIL management that financial assistance is required to be rendered to the families for their subsistence, keeping in view of the criteria prescribed."

6. Under the new scheme, the persons who were eligible to get appointment under the compassionate ground and who are dependent upon the deceased employee of the NPCIL, while in service were paid Rs. 5 lakhs as exgratia after the introduction of the scheme made by circular dated 5.10.2006. In Paragraph 8 of the said scheme, the NPCIL superseded the previous scheme for employment to a dependent family members of an NPCIL employee who die in harness or is retired on medical grounds or who was gone missing. Therefore, since neither the Petitioner nor their dependents have given employment so far, the Petitioners were not entitled for ex gratia scheme, especially when the earlier scheme for employment has been superseded by the new scheme.

7. In answering to the claim made by the Petitioners, in each of the counter affidavit in W.P. Nos. 6883,6884 and 6885 of 2009 respectively, in paragraph 5, it is stated as follows:

5. The Petitioner's husband Late Abdul Gafoor, was employed in MAPS as a Driver-cum-Operator and died while in service on 09.09.1997. After the death of her husband, the Petitioner received all the terminal benefits from the Respondents department and is also drawing family pension of Rs. 4,270/- per month. Moreover, Petitioner is staying with her son Mr. A.G. Abdul Rasheed, in a Departmental accommodation allotted to him at Kalpakkam. The Petitioner's son is employed as "Fireman/A" in the Fire Station of MAPS and drawing a Gross salary of Rs. 18,290/- pm. The Petitioner, apart from her monthly family pension was also getting all the facilities such as medical care at DAE Hospital, Kalpakkam. In view of the above facts, the claim of the Petitioner seeking Rs. 5,00,000/- from the Respondents as an exgratia amount on account of the death of her husband is completely unjustified and not tenable.

5. The Petitioner's husband Late Mani, was employed in MAPS as Fireman/C and died on 16.06.1999 while in service. After the death of her husband, the Petitioner received all the terminal benefits from the Respondents department and is also drawing family pension of Rs. 4,270/- per month. Moreover, her two sons who are working in private companies one in Chennai and another under a contractor at DAE, Kalpakkam are earning and her daughter already got married. The Petitioner being a widow of late M. Mani is recipient of family pension and is entitled to all the facilities such as medical care at DAE Hospital. In view of the above facts, the claim of the Petitioner seeking Rs. 5,00,000/- from the Respondents as an exgratia amount on account of the death of her husband is completely unjustified and not tenable.

5. The Petitioner's husband Late Mohan Kumar, was employed in MAPS as Tradesmen/G and died on while in service on 30.10.2000. After the death of her husband, the Petitioner received all the terminal benefits from the Respondents department and is also drawing family pension of Rs. 5,542/- per month. Moreover, Petitioner is staying with her son Mr. M. Muthu Ganesh in a Departmental accommodation allotted to him at Kalakkam. The Petitioner's son is employed as "Scientific Officer/C" in the IDEAS Section of Indira Gandhi Zcentre for Atomic Research (IGCAR) of DAE at Kalakkam and drawing an approximate salary of Rs. 33,000/- pm. The Petitioner, apart from her monthly family pension was also getting all the facilities such as medical care at DAE Hospita, Kalpakkam. In view of the above facts, the claim of the Petitioner seeking Rs. 5,00,000/- from the Respondents as an exgratia amount on account of the death of her husband is completely unjustified and not tenable.

8. Therefore, it is not as if even under the old scheme, the Petitioners were eligible for any employment and since their family is not in distress, the question of grant of employment assistance on compassionate ground were not available to them. It is also stated by the NPCIL that exgratia payment was effective from 01.01.2001 after discussion and deliberation with the representatives of the workmen at Joint Consultative Council (JCC) and since the Petitioners' husbands died long before the scheme was introduced and the scheme is not retrospective in nature.

9. It not necessary to go into the interpretation of the scheme in respect of these three cases in the light of the averment made in paragraph 5 of the respective counters extracted above. Since the Petitioners were in any event ineligible to get employment assistance, the question of considering an alternative scheme to provide a lump sum amount of Rs. 5,00,000/- do not arise and the question relating to retrospective effect is left open in future cases with any observation. In these cases, the Petitioners have not made out any case for getting any exgratia payment. All the writ petitions are dismissed. No. costs.