

Court No. - 7

Case :- WRIT - A No. - 8950 of 2023

Petitioner :- Durgesh Nandani

Respondent :- State Of U.P. Thru. Prin. Secy. Energy Lko. And 6 Others

Counsel for Petitioner :- Vashu Deo Mishra, S.K. Mishra
Nagraha

Counsel for Respondent :- C.S.C., Ran Vijay Singh

Hon'ble Abdul Moin, J.

1. Heard learned counsel for the petitioner, learned Standing Counsel for respondent no.1, and Sri Ran Vijay Singh, learned counsel for respondents no.2 to 7.
2. With the consent of learned counsels for the parties, the writ petition is being finally decided.
3. It is contended that the facts of the case have already been noted in the order dated 18.11.2023.
4. For the sake of convenience, the order dated 18.11.2023 is reproduced below:-

"1. Heard.

2. The contention of learned counsel for the petitioner is that the petitioner is widow of Sri Ram Kumar Verma, who was working on the post of Junior Engineer in the respondent Corporation. The husband of the petitioner retired on attaining the age of superannuation on 30.04.2015 and died on 27.04.2021. The pension was not paid to Sri Ram Kumar Verma on various ground. Subsequent to his death, the petitioner staked her claim for being granted the family pension but the respondents vide order dated 27.05.2023, a copy of which is Annexure-1 to the writ petition, have indicated that the petitioner would only be entitled for family pension while the gratuity has been withheld on the ground that two revenue receipt books were not handed over by Sri Ram Kumar Verma.

3. The contention is that keeping in view the Full Bench judgment of this Court passed in Special Appeal No.40 of 2017 in re: Shivagopal vs. State of U.P. and others, decided on 08.05.2019, the respondents can only withhold the gratuity and pay the provisional pension in case of criminal proceedings or

departmental proceedings are pending but in the instant case mere not handing over of the revenue receipts books by the husband of the petitioner would not entail the respondents to withhold the gratuity and other retiral dues as were payable to the petitioner's deceased husband and now to the petitioner.

4. Sri Ran Vijay Singh, learned counsel for the respondents prays for and is granted two weeks' time to seek instructions in the matter. List thereafter as fresh."

5. From the aforesaid order, it emerges that the gratuity as payable to the petitioner in the capacity of being the widow of the deceased employee has been withheld by the respondents vide the order impugned dated 27.05.2023, a copy of which is Annexure-1 to the writ petition, on the ground that two revenue receipt books were not handed over by the petitioner's husband Sri Ram Kumar Verma while he was in service.

6. The contention is that keeping in view the Full Bench judgment of this Court passed in Special Appeal No.40 of 2017 in re: **Shivagopal vs. State of U.P. and others**, decided on 08.05.2019, the respondents could have withheld the gratuity and only pay the provisional pension in case of pendency of criminal proceedings or departmental proceedings but in the instant case the gratuity of the deceased husband has been withheld solely on the ground of not having handed over revenue receipt books.

7. It is argued that even if for the sake of argument the said objection being taken by the respondents is taken at its face value the same could only have concern with the petitioner's deceased husband who was an employee of the Corporation and would have nothing to do with the petitioner who is the widow of the deceased employee and thus the objections being taken by the respondents are patently misconceived.

8. On the other hand, Sri Ran Vijay Singh, learned counsel appearing for the Corporation, on the basis of instructions states that the gratuity had not been paid to the husband of the petitioner on the ground of not handing over the revenue receipt books and as the revenue receipt books have still not been handed over consequently there cannot be any occasion for payment of gratuity to the petitioner, widow of the deceased employee and as no 'No Objection Certificate' had been given by the petitioner's deceased husband.

9. Having heard learned counsels for the parties and having perused the records, what emerges is that the petitioner's husband Sri Ram Kumar Verma was an employee of the

Corporation, who retired on 30.04.2015 and subsequently died on 27.04.2021. Admittedly, the gratuity was not paid to the petitioner's husband on the ground of not handing over of two revenue receipt books. Admittedly, the respondents did not initiate any departmental proceedings or any criminal proceedings against the husband of the petitioner. Once the husband of the petitioner had retired and subsequently also left for his heavenly abode on 27.04.2021 and admittedly no departmental or criminal proceedings were pending against the husband of the petitioner consequently not handing over the revenue receipt books would now have no concern with the petitioner, widow of the deceased employee, and the same cannot authorise the respondents to not pay gratuity to the petitioner.

10. Keeping in view the aforesaid discussion, the writ petition is **allowed**. The impugned order dated 27.05.2023, a copy of which is Annexure-1 to the writ petition, is quashed. The respondents are directed to pay the gratuity and full pension to the petitioner within a period of six weeks from today along with arrears, if any. Respondents shall also consider the payment of interest at the admissible rates from the date gratuity fell due initially to the petitioner's husband and subsequently to the petitioner till the date of actual payment.

Order Date :- 8.12.2023

A. Katiyar