

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3598 of 2015

Jaishree Devi Chaterjee @ Jaishree Devi wife of Late Ashok Kumar Chaterjee,
resident of village and Post- Dumarama Ward No. 4, Amarpur, District- Banka

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Supaul
3. The Sub-Divisional Officer, Supaul
4. The Managing Director, Bihar State Food and Civil Supply Co-operation Ltd.
5. The District Manager, State Food Nigam, Saharsa
6. The District Manager, Bihar State Food & Civil Supply Corporation Ltd., Bhagalpur
7. The Account Officer, Employee's Provident Fund Organization, Sub-Regional Office, Adampur Chowk, Bhagalpur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Vasant Vikas, Adv.
For the BSFC : Mr. Shailendra Kumar Singh, Adv.
Mr. Awadhesh Kr. Singh, Adv.
For the EPFO : Mr. Prashant Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 17-04-2015

Heard learned counsel for the parties as with regard to the
following relief prayed in this writ application:-

"1(i) For issuance of an appropriate writ in the nature of mandamus, commanding and directing the respondent authorities for payment of retiral and other dues payable to the petitioner after death of her husband such as provident Fund, group insurance, leave encashment Family pension and gratuity and other dues with statutory and pendentctive interest on each head and cost because the action of the respondent not only caused delay rather they have compelled the petitioner to knock the door of this

Hon'ble High Court for payment of her legitimate dues."

While the case of the petitioner in details is that the husband of the petitioner was an employee of the Bihar State Food and Civil Supplies Corporation (hereinafter to be referred to as 'the Corporation') who had died on 23.3.2008, the stand of the learned advocate for the Corporation is that the husband of the petitioner was absent from duty ever since 1986.

Digging a clue from this submission, learned counsel for the E.P.F. Corporation has submitted that if the husband of the petitioner was not drawing salary from 1986 onwards, there would be no question of any liability on the head of the E.P.F. Organization because the contribution to the provident fund has to be made both by the employee and the employer in the equal proportion. He has also explained that the provident fund earlier was being managed by the Corporation itself till the year 2004 and, therefore, it is not a plain and simple case of settlement of retirement benefit and/or payment of family pension to the petitioner.

All these facts would require some sort of enquiry and, therefore, this Court would direct initially to the Corporation to come out with a clear case as to whether the husband of the petitioner was actually working ever since 11.11.1986 so as to become entitled for payment of retirement benefit. If on such enquiry, it is found that the



husband of the petitioner was not entitled to get any amount of retirement benefit as he had remained absent from the duty from 11.11.1986, an order to this effect shall be passed by the officials of the Corporation and also by making payment of the admissible amount for the contribution made by the petitioner till 11.11.1986.

It is only on receipt payment of the contribution of the petitioner from the authority of the Corporation that the role of E.P.F. authority would commence and, therefore, this Court, for the present, without issuing any specific direction for payment of retiral dues to the petitioner, would direct the Corporation to first take a decision as to whether and to what amount, if any, of the retirement dues, the petitioner will be entitled and if any of such payment has to be made by the authorities of the E.P.F., a communication to this effect shall be sent by the authority of the E.P.F. Organization.

This Court, however, must make it clear that the widow may not be in a position to give any relevant information and, therefore, whatever decision has to be taken by the Corporation must be taken on the basis of its own record within a period of four months from the date of this order, whereafter, the payment of retiral dues, if any, to the petitioner to be made from the ends of the Corporation must be made within next two months and whatever amount is found payable by the E.P.F. Organization that too also must be made within

a period of two months from the determination made by the Corporation and by the E.P.F. authorities.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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