

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 902 of 2007

Smt. Renuka Sahu, W/o. Late Shri Y.K. Sahu, Aged About 50 Years, Occupation- Service, Posted as Clerk, Water Resources Department, Kharkhara Mohandipat Project, Sub-Division, Rajnandgaon, District Rajnandgaon (Chhattisgarh)

----Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Water Resources Department, Government Of Chhattisgarh, D.K.S. Bhawan, Mantralaya, Raipur, (Chhattisgarh)
2. Secretary, State Of M.P., Water Resources Department, Secretariat, Bhopal, (M. P.)
3. Chief Engineer, Ganga Kachhar, Rewa, District Rewa, (M. P.)
4. Chief Engineer, Mahanadi Godawari Kachhar, Raipur (Chhattisgarh)
5. Executive Engineer, Water Resources Department, Balod, District Durg (Chhattisgarh)

---- Respondents

For Petitioner : Mr. Malay Shrivastava, Advocate.
For Respondents No.1,4 & 5 : Mr. Satish Gupta, Govt. Advocate.
For Respondents No.2 & 3 : Mr. Sachin Singh Rajput, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24.06.2016

Heard

1. This is a petition filed by the widow of one Late Y.K.Sahu, who was working as Clerk in Water Resources Department, Kharkhara, Mohandipat Project, Sub Division Rajnandgaon, District Rajnandgaon (C.G.).
2. The petition has been preferred on the ground that when the husband of the petitioner Y.K.Sahu was in service, he died in harness on 15.11.1991 and during his tenure certain recovery of Rs.22,269/- was ordered for from the salary of late husband Y.K.Sahu and at the time of his death, he was posted at Balod,

District Durg. After the death of husband, the petitioner was given compassionate appointment as Assistant Grade-III employee in Water Resources Department. It is pleaded that after death of the husband, the petitioner received the entire dues except the balance amount of Rs.21,769/- which was to be paid on account of gratuity and leave encashment of 208 days. This is also not in dispute as the petitioner's husband died in harness. The case of the petitioner's husband was considered sympathetically by the then State of Madhya Pradesh vide its order bearing No.747/ Loka/ mail/ MPS/ 31/ 90/ 1075 dated 09.03.1992 closed the case and by a letter dated 18.01.1995 recommended for write off the case of the petitioner's husband. Subsequently, with the internal communication *inter se* between the Chief Engineer, Ganga Kachhar, Rewa addressed to the Secretary, State of Madhya Pradesh, Water Resources Department requested for release of an amount of Rs.21,769/-, which was due to the husband of the petitioner. The petitioner thereafter followed up the issue, however, the payment could not be released and the amount remains unpaid. The time rolled by and the notices were exchanged between them and eventually this petition was filed for the release of the amount in the year 2007.

3. The State of Chhattisgarh i.e. the Respondent No.1, 4 & 5, in their reply contended that as and when the Respondent No.2 & 3 i.e. Secretary, State of Madhya Pradesh and Chief Engineer, Ganga Kachhar Rewa give information regarding sanction of write off the recovery made against the husband of the petitioner, the answering Respondent i.e. the State of Chhattisgarh would make entire payment expeditiously to the petitioner. The said reply was supported by the affidavit of one P.K.Agrawal, Executive Engineer, Water Resources Department.

4. The State of Madhya Pradesh i.e. Respondent No.2 & 3, had also filed their return and it is contended that the amount of leave encashment was not paid to the petitioner because there was some outstanding against the husband of the petitioner who was the employee of the respondent Department and a miscellaneous advance was shown in the account and it was to be recovered from the husband. However, in the meantime, since the husband of the petitioner expired, therefore, such recovery was waived and sanction for not making any recovery was also granted vide order dated 19.03.2014 filed as Annexure R-1.
5. Perusal of Annexure R-1 would show that the case of the husband of the petitioner was sympathetically considered and the recovery of Rs.21,769/- was waived. Therefore, the said letter dated 19.03.2014 if is read with the reply of the State of Chhattisgarh wherein they have stated that the State of Chhattisgarh is ready and willing to pay the entire payment when the information of write off is received and would pay the entire dues of leave encashment would lead to an admission on behalf of the State of Chhattisgarh.
6. Therefore, in view of the aforesaid discussion, it is directed that the petitioner may make a representation for release of the dues of leave encashment before the Respondent No.1 with a copy to Respondent No.4 and on such representation having been made, the State would decide the same expeditiously within a further period of three months from the date of receipt of the copy of representation and decide the same objectively by making a reference to the admission made in the return filed before this Court
7. With such observation, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge