IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21702 of 2014

==

1. Sunil Lyall (Husband) Son of I.R. Lyall
2. Shalin Lyall (Son) Son of Sunil Lyall Both resident of Flat No. 102, B-88/102, Pushpanjali Apartment, Budha Colony, Patna- 800001
3. Sreela Lyall (Daughter) Wife of Deepu Stephan Lall Resident of Sector 4/D, Qr. No. 2116, Bokaro Steel City, State of Jharkhand- 827004

.... Petitioner/s

Versus

1. The Union of India, Ministry of Labour & Employment, Government of India, New Delhi through its Secretary.
2. The Central P.F. Commissioner, Employees Provident Fund Organisation, Head Office Bhawishya Nidhi Bhawan, 14-Bikhaji Cama Place, New Delhi-110066.
3. Employees Provident Fund Organisation, Regional Office Bhawishya Nidhi Bhawan, R-Block, Road No. 6, Patna-800001.
4. The Regional Provident Fund Commissioner, Employees Provident Fund organisation, Regional Office Bhawishya Nidhi Bhawan, R-Block, Road No. 6, Patna-800001.
5. The Assistant Provident Fund Commissioner, Employees Provident Fund Organisation, Regional Office Bhawishya Nidhi Bhawan, R-Block, Road No. 6, Patna-800001.
6. Baptist Church Trust Association, Head Office, 19E, Raj Niwas Marg, Delhi-110054 through Secretary Treasurer BCTA.
7. M/s Angus Girls School & Women's Training College, Lodipur, Budha Marg, Patna through its Secretary.

.... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Ajay Kumar Sinha
For the Respondent/s : Mr. Sanjay Kumar(ASG)

==

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 16-10-2017

The original writ petitioner Sarla Veena Lyall died during pendency of the writ petition. After her death, her husband Sunil Lyall, her son Shalin Lyall and daughter Sreela Lyall have been substituted by the order dated 06.09.2017.

2. The prayer made in the writ petition is to direct the

respondents to make payment of provident fund, pension and other benefits admissible to late Sarla Veena Lyall under Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short 'EPF & MP Act') and its scheme.

3. The original writ petitioner claimed to have worked with the respondent no.7 since 1981. She also claimed to have worked as the Principal of the respondent no.7 and as such she claimed to have participated in various proceedings before the Provident Fund authorities. Her grievance was that after her retirement her retrial benefits relating to provident fund, pension etc. had not been released.

4. Learned counsel for the petitioners submitted that being Principal of the school, the original writ petitioner was under legitimate expectation that she is member of the EPF and would get all benefits under the EPF & MP Act and its scheme even after retirement.

5. A counter affidavit has been filed on behalf of the respondent nos. 2 to 5 wherein it is stated that the petitioner being Principal of the school and also looking after the Accounts of Employees Provident Fund Organization had filed returns, but in the same, her name is not available. It is stated that in absence of employer's and employee's contribution in the Employees Provident Fund Organization no benefit would be admissible to the writ

petitioner. It is also stated that earlier writ petition bearing C.W.J.C. No. 6622 of 2007 was disposed of vide order dated 15.12.2009 on the basis of submissions made by the petitioners of that case, which included the original petitioner of the present case, that dues as well as returns for the period from 01/1995 to 03/2002 have been submitted with the Employees Provident Fund Organization. On such submission the said writ petition was disposed of with an observation that the respondents may consider withdrawal of cases pending in different courts.

6. Learned counsel for the respondents submitted that as the statutory returns i.e. Form 6A(R), which were submitted under Paragraph 38(3) for the period 1999-2004 and 2005-06 on 30.09.2004, 05.10.2004 and 18.11.2004 do not contain the name of the petitioner, the reliefs prayed for in the present writ petition cannot be allowed.

7. Having regard to the submissions made on behalf of the parties, as there is no denial to the contents of the counter affidavit, this Court is of the opinion that the reliefs prayed for in the present writ petition cannot be allowed especially for the reason that the school has submitted statutory returns but the name of the petitioner does not figure in those returns. The employees Provident Fund Scheme, 1952 and Employees Pension Scheme are defined

contribution and defined pension scheme. Unless the Employees Provident Fund Organization receives contribution, which is reflected in the statutory returns on behalf of a particular employee, no mandamus can be issued to the Employees Provident Fund Organization to make payment of the provident fund or pension to an individual. Moreover, the original writ petitioner herself being the Principal of the school and looking after the accounts of employees' provident fund was in full knowledge that her name was not in the returns and thus she cannot claim any benefit under the scheme of EPF & MP Act.

7. Accordingly, the writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	