

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.2422 of 2017

- Smt. Pramila Chhipiye W/o Late Shri Pradeep Kumar Chhipiye, Aged About 50 Years R/o C - 09 Ganesh Enclave Chhoti Koni Thana Koni Bilaspur, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Prabandh Sanchalak, Chhattisgarh Rajya Bhandargrih Nigam Pradhan Karyalaya N - 03, Avanti Vihar Raipur, Chhattisgarh.
2. Prabandhak Lekha, Chhattisgarh Rajya Bhandargrih Nigam Pradhan Karyalaya N - 03, Avanti Vihar Raipur, Chhattisgarh.
3. Shakha Prabandhak, Chhattisgarh Rajya Bhandhar Grih Nigam Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Rajendra Patel, Advocate
For Respondents	:	Shri B. D. Guru, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

07/11/2017

Heard.

1. Husband of the petitioner, Pradeep Kumar Chhapiye died on 23-05-2015, while he was in service of respondent. When no retiral dues including GPF and gratuity were paid, a representation was preferred by the present petitioner. When the representation failed to evoke any response, the petitioner filed this petition. This Court required the respondent's counsel to seek instructions and inform the Court as to why dues have not been released.
2. A reply on affidavit has been filed by the respondents, referring to which, learned counsel for the respondents would submit that while the deceased employee was in service, there were certain losses caused to the Warehousing Corporation and various internal inquiries are going on in the matter and unless in those inquiries, the deceased employee is finally exonerated, the retiral dues viz. gratuity, GPF cannot be

released. He submits that as and when those inquiries are completed, the dues which are payable to the petitioner, shall be expeditiously made.

3. Admittedly, the employee died on 23-05-2015. Learned counsel for the respondents could not point out that either in the contract of service with the deceased employee or in the statutory Rules governing terms and conditions of service, it was open for the respondent, despite cessation of relationship of master and servant, to institute departmental enquiry against deceased employee. Unless it is permissible either in the contract of service between the deceased employee and respondent or under any service Rules having force of Law, the gratuity and GPF amount of the deceased employee may not be withheld. It would be an arbitrary action to withhold retiral benefits, unless it is permissible under the Law. It is not a case that some departmental enquiry has already been initiated or that certain orders have been passed towards recovery so as to justify withholding of whole or part of retiral dues of the deceased employee. If that is allowed to be done, it would amount to denying and depriving the benefit of GPF and gratuity which do constitute property under Article 300-A of the Constitution of India, without any authority and Law.

4. On aforesaid considerations, particularly in the absence of any Rule authorizing the respondent to withhold the retiral dues of the deceased employee, this Court is inclined to issue writ of mandamus to respondents to release forthwith the amount of gratuity and GPF to the petitioner. Let necessary orders be passed and amount be deposited in petitioner's account within an outer limit of 60 days from the date of receipt of copy of this order.

5. The petition is accordingly allowed.

SD/-
(Manindra Mohan Shrivastava)
Judge