

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4493 of 2005

Mst. Prabha Devi Thakur (Dead) Through LRs (As Per Hon'ble Court Order Dated 02-12-2013)

(1-A). Narayan Singh Thakur S/o Late Shri Shyam Sunder Thakur, Aged About 34 Years,

(1-B). Mohan Singh Thakur S/o Late Shri Shyam Sunder Thakur Aged About 29 Years

(1-C). Monika Thakur D/o Late Shri Shyam Sunder Thakur Aged About 21 Years

All are R/o North Chakradhar Nagar, Banglapara, Raigarh, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Commerce And Industries Mantralaya, D. K. Building, Raipur, Chhattisgarh.
2. The State Of Madhya Pradesh, Through The Secretary, Department, Of Commerce And Industries, Vallabh Bhawan, Bhopal Madhya Pradesh.
3. The Commissioner, Industries Directorate Of Industries Raipur, District Raipur, Chhattisgarh.

---Respondents

For Petitioners	:	Mr. B.D. Guru, Advocate
For State	:	Mr. Syed Majid Ali, Dy. G.A.
For respective Respondent	:	Mr. Prateek Kumar Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/12/2018

1. The relief sought for by the petitioners herein is for grant of promotion to the father of the petitioners, who has died on 13.05.1995 and was deprived of his promotional rights, which fell due from 29.11.1989 and have prayed for the consequential benefits including arrears of pay and the revised pensionary benefits, which the father of the petitioners (deceased employee) would get.

2. The facts of the case is that the deceased employee was working with the respondents as an Assistant Director and was entitled for promotion to the post of Deputy Director. The deceased employee was denied the said promotion as there was some litigations, which arose from the said dispute, which traveled up till the Hon'ble Supreme Court and the Hon'ble Supreme Court, vide order dated 02.02.1996 while allowing the SLP, held as under:-

“The applicants are entitled to get their seniority over the ad-hoc promotees who were appointed as Assistant Director on 27.09.1980. The respondent-State is directed to re-draw the seniority. The applicants' application before the Tribunal stand allowed. There will be no order as to costs. The seniority list may be re-drawn up within 4 months from the date of the receipt of this order and consequential benefits may be given.”

3. The case of the petitioners was identically placed as that of the appellants before the Hon'ble Supreme Court. The order of the Hon'ble Supreme Court subsequently was implemented by the State Government vide order dated 20.06.1996 and promotion order, as a consequence, was issued in favour of all those similarly situated persons on 24.01.1997 giving it a retrospective effect from 29.11.1989 as has been ordered by the Hon'ble Supreme Court.
4. The difficulty, which arises in the present case, is that before the judgment of the Hon'ble Supreme Court came and it could be implemented by the State Government, the deceased employee namely late Shyam Sunder Thakur has expired while in service. The only limited grievance, which the petitioners have sought for, is for grant of the

benefit, which the deceased employee would have got from 29.11.1989 till his death on 13.05.1995.

5. The writ petition was originally filed by the widow of the deceased employee namely Smt. Prabha Devi Thakur. Pending the litigation, the widow of the deceased employee has also expired and thereafter the petition is being prosecuted by their children. Given the fact that the main beneficiary-the widow has also expired, as such the question of grant of revision of pensionary benefits and retiral dues also having seized, in the opinion of this Court, nothing further remains in the present writ petition, which could be awarded in favour of the petitioners, who are all major grown up children of the deceased employee.
6. Had it been a case where the widow would have been alive, things would have been different. In the absence of the widow, the benefits, which could have accrued in favour of the deceased employee, cannot be extended to the petitioners, as they are all grown up legal heirs of the deceased employee, who are all crossed the age of majority, and who would thus not be entitled for the pensionary benefits payable to the dependents of the deceased employee.
7. In view of the same, this Court, without further delving into the issue, involved in the case, proposes to close the matter at this juncture.
8. The writ petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge