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HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) NO. 1214 OF 2018

Smt. Archana Jadhav Wd/o Late Shri Anand Jadhav Aged About 45 Years R/o Qtr. No. 12, Green Paradise, Vishal Nagar, Raipur, District Raipur Chhattisgarh.

…Petitioner(s)

Versus

1. Chhattisgarh State Ware Housing Corporation Through The Managing Director, Chhattisgarh State Ware Housing Corporation, Raipur, District Raipur Chhattisgarh.
2. Account Manager, Chhattisgarh State Ware Housing Corporation, Raipur, District Raipur Chhattisgarh.

… Respondent(s)

For Petitioner	:	Shri RK Kesharwani under instructions of Shri Awadh Tripathi, Advocate.
For Respondents	:	Shri B.D. Guru, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20.06.2018

1. The claim of the petitioner in the instant case is for a direction to the respondents to provide retiral dues, gratuity and GPF payable to the petitioner on the death of her Husband late Anand Jadhav.
2. Brief facts of the case is that, the Husband of the petitioner namely Anand Jadhav was an employee of the respondent-corporation and was working as Technical Assistant who died while in service on 27.10.2017. After death of the Husband, the respondents were not releasing death cum retiral dues payable to the petitioner which lead to filing of the present petition.
3. This court vide order dated 21.03.2018 by way of interim measure directed the respondents to release 50 percent of retiral dues to the petitioner within a period of 45 days. Today, Shri B.D. Guru, appearing for the respondents submits that the order passed by this

court on 21.03.2018 has since been complied with and 50 percent of retiral dues have been released to the petitioner.

4. The issue now left to be considered is whether there is any justified reasons on the part of the respondents with which the retiral dues payable to the petitioner could be withheld. Indisputably, as long as the petitioner was alive or was in service with the respondents, no action whatsoever has been initiated alleging any loss of storage attributing the cause to the Husband of the petitioner. No charge sheet, no enquiry, no departmental proceedings were contemplated as long as he was in service.

5. The contention of the respondents only is that there are some complaint of storage loss received from the Food Corporation of India as also from the Civil Supplies Corporation. The investigation is being done and ultimately if the finding is to the fact that loss was on account of fault on the part of the persons posted in the godown, the Husband of the petitioner would also be held responsible for the loss as at the relevant point of time he was also posted as Branch Manger/Technical Assistant in one of those godowns. Therefore, the respondents are not in a position to settle the entire retiral dues of the petitioner.

6. Once when it is held that during the lifetime of the husband of the petitioner there was no action whatsoever initiated for recovery of any loss, any subsequent decision of the respondents would amount to a decision taken behind the back of the deceased and the deceased employee would not get an opportunity of defence and the order would amount to be an order passed unilaterally. Moreover, admittedly there is no finding till date with which it can be said that storage loss was caused by the husband of the petitioner. Neither is there any enquiry as such initiated against the said deceased employee at any point of time while he was alive.

7. Given the aforesaid factual matrix of the case, the respondents now after death of the employee cannot under any circumstances initiate a recovery proceeding against a dead person. Moreover, even if the contention of the respondents are taken in its face value even then there is no authority or power envisaged with the respondents to withheld the gratuity which was payable to the deceased employee. So also the amount payable under provident fund also cannot be withheld under any circumstances.

8. In view of the above, considering the fact that the Husband of the petitioner died in service and that during his lifetime he was not subjected to any recovery proceeding or even a charge sheet or an enquiry was contemplated or pending against the employee, the respondents under no circumstances now can withheld death cum retiral dues that are otherwise payable to the widow of the deceased employee.

9. The writ petition therefore deserves to be and is accordingly allowed. Let the balance amount of death cum retiral dues payable to the petitioner be released forthwith within a period of four months from the date of receipt of certified copy of this order.

Sd/-
(P. Sam Koshy)
Judge

inder