

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.4087 of 2006

Bacheli Devi, Aged about 50 years, Widow of Late Kanhaiya Jha,
 Permanent Address – Village Bachat, Post Bachat, Distt.
 Darbhanga, Bihar. Present Address – C/o Pramod Ku. Jha,
 Katkona Colliery, Distt. Korea (C.G.)

---- Petitioner

Versus

1. South Eastern Coal Fields Ltd., Through CMD, Seepat Road,
 Bilaspur (C.G.)
2. Personnel Manager, S.E.C.L. Baikunthpur Area, Sub Area Katkona
 Colliery, Distt. Korea (C.G.)
3. The Regional Commissioner Coal Mines Provident Fund
 Organization, Shakti Nagar, Gupteshwar, Jabalpur (M.P.) Pin -
 482001

---- Respondents

For Petitioner: Mr. Pushkar Sinha, Advocate.

For Respondents No.1 and 2: -

Mr. Vinod Deshmukh, Advocate.

For Respondent No.3: Mr. Raj Kumar Gupta, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

19/02/2018

1. The petitioner's husband was declared medically unfit by order dated 12-5-1997 and thereafter, his son was granted dependent employment by the SECL. This writ petition has been filed stating inter alia that he is entitled for family pension which has not been granted by the SECL and the Regional Commissioner, Coal Mines Provident Fund Organization.
2. Learned counsel for the petitioner submits that the petitioner is entitled for family pension which has illegally not been given by the

respondents.

3. Learned counsel for respondents No.1 and 2 would submit that the Coal Mines Family Pension Scheme, 1971 (for short, 'the Scheme, 1971') was applicable when the petitioner's husband entered in service and clause 2(d) of the said Scheme provides for "family pension" and thereby the family member of the SECL employee would be entitled for family pension in the event of his death while in service. Since the petitioner's husband was declared medically unfit on 12-5-1997, he is not entitled for family pension and he would be entitled only for gratuity and the amount of Coal Mines Provident Fund.
4. Learned counsel for respondent No.3 would submit that the petitioner / her husband never applied for the amount of contribution of family pension, therefore, that amount has not been paid.
5. I have heard learned counsel for the parties and considered their rival submissions.
6. Clause 2(d) of the Scheme, 1971 defines "family pension" as under:-

“(d) “family pension” means a regular monthly amount payable to a person belonging to the family of the members of the Family Pension Fund in the event of his death while in service.”
7. Undisputedly, the petitioner's husband was declared medically unfit on 12-5-1997 and from that date he ceased to be in the service of SECL. Therefore, the petitioner is not entitled for family pension. The petitioner's husband died after he was declared medically unfit,

as such, he is not entitled for family pension.

8. So far as the amount deposited under the Scheme, 1971, that amount has undisputedly not been paid which the petitioner is entitled as stated by learned counsel for respondent No.3. In the return it has been submitted by respondent No.3 that the petitioner is entitled for an amount of ₹ 1,940/- payable to the petitioner and also submitted that 2% pension contribution is also refundable to the petitioner. The petitioner is entitled for ₹ 1,940/- and also 2% pension contribution which has not been paid.
9. Learned counsel for respondent No.3 would further submit that application has not been filed by the petitioner claiming the amount of contribution of family pension, therefore, the amount has not been disbursed.
10. The petitioner is a widow and her husband who was an SECL employee, had already died. It is the duty of the authorities of the Coal Mines Provident Fund, which is State under Article 12 of the Constitution of India, to disburse the amount by getting the requisite formality done. It is highhandedness on the part of respondent No.3 authorities not to make payment to the petitioner and take technical objection before this Court that he / she has not furnished / applied for the said amount. This cannot be approved.
11. Be that as it may, the said amount of ₹ 1,940/- shall be paid to the petitioner on furnishing necessary documents. It will be the duty of respondent No.3 to ensure that such a payment is made within 15 days from the date of receipt of a copy of this order with a cost of ₹ 10,000/- to the petitioner along with 8% interest per annum on the

total amount. So far as the amount due under 2% pension contribution, it will be paid either by SECL or by respondent No.3, if it has already been deposited with respondent No.3, along with 8% interest per annum.

12. The writ petition is allowed to the extent indicated herein-above.

No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma