

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4888 of 2018**

Smt. Geeta Tiwari W/o Late Shri Om Prakash Tiwari, Aged About 55 Years, Through Prem Chand Dubey, Purana Sarkanda, Shiv Mandir, Sarkanda, Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Fisheries, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
2. Director, Department Of Fisheries, Mantralaya, Indrawati Bhawan, Fourth Floor, Block - B, Naya Raipur, Chhattisgarh
3. Assistant Director, Department Of Fisheries, Narayanpur, Bastar, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Vivek Verma, Advocate
For State	:	Shri Chandresh Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****06.10.2018**

The claim of the petitioner is for a direction to the respondents for releasing the pension payable to the petitioner on the death of her husband who was an employee under the respondents.

2. Contention of the counsel for the petitioner is that the husband of the petitioner was working as a Fisheries Inspector in the Department of Fisheries under the Govt. of Chhattisgarh who died in harness on 05.09.1998. Pursuant to the death of the deceased employee, the petitioner

had got a succession certificate issued from a competent Court of law and furnished the same before the Department on the basis of which the Department has released all death-cum-terminal benefits payable to the widow except for the pension.

3. So far as the release of pension is concerned, State counsel submits that though they have taken a decision that the petitioner is entitled for pension but the same has not been released on account of the fact that the succession certificate which was issued in favour of the petitioner did not mention the fact that the petitioner would be entitled for pension and the succession certificate was only in respect of the dues which were payable to the successors of the deceased employee. Further contention of the State counsel is that in the service record, the name of the petitioner was not reflected as a nominee reflecting her to be the wife of the employee and in the nomination form, the nominee was the mother of the deceased employee which was also one of the grounds for not releasing the pension.

4. Given the facts, this Court finds that the stand taken by the respondents to be too hyper technical. Once when the State Govt. based on the succession certificate has released the petitioner all death-cum-retiral benefits, it has to be presumed that the State Govt. had accepted and honoured the succession certificate and also treated the petitioner to be the successor of the deceased employee and there is no objection/dispute raised by the respondents doubting the status of the petitioner to be the widow of the deceased employee.

5. Given the aforesaid factual matrix of the case this Court does not find any good reason why the pension payable to the petitioner should not have

been released promptly if not at least while releasing the other death-cum-retiral dues to the petitioner on her obtaining the succession certificate.

6. It is relevant at this juncture to refer to the fact that undoubtedly the death of the deceased employee was on 05.09.1998. The petitioner had got a succession certificate from the competent Court of law on 25.01.2012. What is relevant to be borne in mind at this juncture is that the succession certificate while being issued has categorically held that it is the petitioner who would be entitled for all the dues which are payable on the death of the deceased employee. Once it has been held that the petitioner is entitled for the dues payable, the dues payable would also include the pension that would fall upon the family of the deceased employee. It would be too hyper technical ground on the part of the respondents not to release the pensionary benefits to the petitioner, particularly when they had accepted the succession certificate of the petitioner so far as releasing of the other dues payable to the petitioner is concerned. It appears that the petitioner has been denied the pension only on account of some lame excuse and objection raised by the officers in the treasury Department for which the petitioner has been deprived of her legitimate claim of pension for the last more than 20 years.

7. Given the aforesaid facts, the writ petition deserves to be and is accordingly allowed. The respondents are directed to ensure that the pension payable to the petitioner on the death of the deceased employee namely Om Prakash Tiwari who died in harness on 05.09.1998 be released to the petitioner forthwith preferably within a period of 60 days from today. It is made clear that since the petitioner has been deprived of the pension for

no fault on her part and moreover the same has not been released to the petitioner in spite of the fact that the petitioner had obtained a succession certificate, the petitioner would also be entitled for interest on the arrears of pension which would be payable @ 7.5% per annum from the date it fell due till the date of actual payment.

8. The writ petition accordingly stands allowed.

**Sd/-
P. Sam Koshy
Judge**