

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4096 of 2019

Smt. Kevra Bai W/o Late Vijay Kumar Mali Aged About 54 Years R/o - Nayapara, Bemetara, District - Bemetara, Chhattisgarh. Presently Residing At Sardar Patel Ward, In Front Of Post Office Mungeli, Police Station Mungeli, District Mungeli Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Atal Nagar , Police Station Rakhi, District - Raipur Chhattisgarh.
2. The Collector, Bemetara, District Bemetara Chhattisgarh.
3. The Tahsildar Nawagarh District Bemetara Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Vivek Kumar Agrawal, Advocate
For State	:	Mr. Rahul Mishra, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/06/2019

1. The relief sought for by the petitioner in the present writ petition is for an appropriate direction to the respondents to consider the case of the petitioner for grant of pension, gratuity, provident fund and other retiral dues which the petitioner is entitled for on the death of her husband late Vijay Kumar Mali.
2. The facts of the case is that the husband of the petitioner was working as an Assistant Grade-III in the Tahsil Office Nawagarh. He was charge-sheeted on 29.08.2000 for unauthorized absent and vide order dated 30.04.2002, the services of the petitioner was terminated.
3. The petitioner preferred an appeal and the appeal also stood rejected. The order of termination and rejection of the appeal was challenged in WP No. 2668/2008 which stood allowed on 18.07.2017 and this Court in very categorical term in paragraph No.11 held as under:

“As a fallout and consequence of the above discussion, the order of termination passed by the Collector and affirmed by the appellate authority are hereby set-aside.”

4. The petitioner was also granted the benefit of 50% back-wages from the date of termination till the date of retirement or till the date of death, whichever is earlier. From the records, it appears that the husband of the petitioner died on 13.01.2013 and on the said date, there was still some service left for the husband of the petitioner.
5. Given the said facts, since the order of termination and order of the Appellate Authority has been set-aside by this Court in WP No. 2668/2008 on 18.07.2017, the position stands as if the termination order never existed. In that circumstances, the husband of the petitioner has been treated to have been in service till the date of his death i.e. on 13.01.2013 and the petitioner therefore would be entitled for provident fund, gratuity and other benefits, which the petitioner would have got on the death of her husband on 13.01.2013.
6. The writ petition therefore is allowed to the extent that the respondents shall consider the case of the petitioner for the purpose of releasing the pension and other death-cum-retiral dues, which the petitioner would have got, had he died while serving on 13.01.2013.
7. Let this exercise be completed within a period of 4 months from the date of receipt of the copy of this order.
8. With the aforesaid observations, the present writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge