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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No. 1072 of 2018

A Suo Moto taken writ petition Smt. Savita Chouhan, Address – Wd/o Late Vijay Kumar Chouhan, R/o. Thakurdiya, P.S. and Tahsil Sarangarh, District Raigarh (Chhattisgarh).

---Petitioner

Versus

1. State of Chhattisgarh, Address – Through Secretary Law Department, Mahanadi Bhawan, Raipur (Chhattisgarh).
2. Registrar General, High Court of Chhattisgarh, Bilaspur (Chhattisgarh).
3. Presiding Officer, Labour Court Raigarh, District Raigarh (Chhattisgarh).

---Respondents

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

07.01.2019

(1) A communication has been received from Smt. Savita Chouhan, who lost her husband in an accident on 02.06.2016, saying that she had preferred a claim for compensation before the Commissioner for Employees' Compensation on 01.10.2016, but it has not been decided and she has invited the attention of Hon'ble the Chief Justice that her matter is pending since 01.10.2016 and it is not being adjudicated and she is unable to get compensation, which she is otherwise entitled. The said communication was

registered as writ petition

(2) Section 25A of the Employee's Compensation Act, 1923 Provides as under:-

“25A. Time limit for disposal of cases relating to compensation.- The Commissioner shall dispose of the matter relating to compensation under this Act within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee.”

(3) Section 25A of the Employee's Compensation Act, 1923 obliges the Commissioner for Employees' Compensation to decide the claim within three months from the date of making the application. The said provision has been followed by the learned Commissioner for Employees' Compensation in its full breach.

(4) Report/explanation has been called from the Commissioner for Employees' Compensation / Labour Court, Raigarh as to why Smt. Savita Chouhan's claim application has not been decided till this date, which has been received from the Commissioner for Employees' Compensation / Labour Court, Raigarh on 24.12.2018. But explanation furnished by learned Commissioner is not acceptable to this Court. However, in light of Section 25A of the Act of 1923, the Commissioner for Employees' Compensation / Labour Court, Raigarh is directed to conclude hearing of the petitioner's case expeditiously preferable within a period of one month from the date of receipt of a copy of this order.

(5) It is stated at the bar that there is no full time Commissioner for the Labour Court Raigarh. The High Court is requested to look into the matter and to consider and appoint full time Commissioner for the Labour Court, Raigarh expeditiously.

(6) Copy of this order be sent to the Registrar General for information and needful as well as to the Labour Court, Raigarh for compliance.

Sd/-

(Sanjay K. Agrawal)

Judge

D/-

“5. What has been said in relation to an application under Order 41, rule 27(1) applies equally to the disposal of an application for amendment of pleadings made at the appellate stage. The question whether a party should or should not be allowed to amend its pleadings at the appellate stage cannot in its very nature be decided unless the appeal is first heard on merits. The order of the Additional District Judge, Chhindwara, permitting the non-applicants Nos. 4 and 5 to produce additional evidence and to amend their written statement must, therefore, be set aside and the Additional District Judge must be directed to consider the said non-applicants’ application under Order 41, rule 27 and the application for amendment of the written statement after hearing the appeal on merits.”