

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19305 of 2018

Mostt. Siya Janaki Devi @ Most. Siya Janki W/o Late Singasan Pandit
resident of Village - Basra, P.O. Manjhawalia, P.S. Manjhawalia, District -
Bettiah West Champaran at present residing at Village - Gaunaha, P.O. and
P.S. Gaunaha, District - Bettiah.

... .. Petitioner/s

Versus

1. The Bihar State Cooperative Marketing Union Ltd.
2. The Managing Director, the Bihar State Co-operative Marketing Union Ltd.
BISCOMAUN Bhawan, Gandhi M
3. The Regional Commissioner, Employees Provident Fund, Bhavishyanidhi
Bhawan, Road No. 6, R. Block, P

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Brij Mohan Kumar Singh
For the Respondent/s : Mr. Vikas Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 08-06-2020 Heard learned counsel for the petitioner, State and
Biscomaun as well as EPFO.

2. Learned counsel appearing on behalf of the petitioner would submit that husband of the petitioner was appointed in Biscomaun. His service was terminated on 29.10.1988. The order of termination was challenged by the husband of the petitioner in BSE Case No. 45 of 1988. The order of termination was set aside on 19.5.1994. The husband of the petitioner died on 15.5.2003. After the death of the husband of the petitioner, the petitioner approached the authorities for remedial action and on failure he has filed C.W.J.C. No. 7676



of 2007 for payment of salary and other retiral dues. The writ application was disposed of on 18.3.2009. Learned counsel further submits that when the order of the writ court was not complied with, the petitioner approached this Court in MJC No. 2917 of 2009 and during the pendency of the contempt application, the petitioner was paid Rs. 4,34,919/-

3. Learned counsel for the petitioner submits that petitioner has now raised grievance that petitioner has been denied the benefit of family pension. He submits that the Biscomaun has admitted pension for its employees on 16.11.1995. Since the husband of the petitioner died on 15.5.2003 and as such the petitioner was entitled to benefit of pension in terms of the scheme admitted by the Biscomaun.

4. Learned counsel appearing on behalf of the Biscomaun with reference to Annexure-5 and 6 would submit that after the death of the petitioner, the contribution was sent by the Biscomaun vide Annexure-5 on 23.3.2012 which was rejected by the EPFO on 26.3.2018, Annexure-6.

5. Mr. Satyendra Kumar Jha, learned counsel appearing on behalf of the Biscomaun would submit that there is no infirmity committed by the respondent EPFO in refusing the contribution made by the Biscomaun. He submits that in the



earlier proceeding, the EPFO was not a party. He further submits that after the death, law does not permit to the employee or employer to deposit contribution to admit the widow of the deceased employee to the benefit of family pension.

6. It is true that the employer has not deposited the contribution to the employee which ought to have deposited as contribution with the employees' provident fund organization and taking into consideration the fact that the petitioner husband was earlier terminated by the Biscomaun and on reinstatement after the order in BSE Case No. 45 of 1988 the payment of arrears was made after the order of this court in Annexure-3 and 4, the Court finds that petitioner has been made to suffer for the lapse of the Biscomaun in depositing the contribution within the time.

7. The Court also finds that the pension scheme was admitted by the Biscomaun there was failure on the part of the Biscomaun in depositing the contribution in the provident fund during the life time of husband of the petitioner but there is failure on the part of the employees' provident fund organisation also. Since the scheme is regulated by certain norms where the employer and employee and provident fund organization are



equal party in the implementation of the welfare scheme as to social security in the nature of family pension.

9. The Court in the facts and circumstances of the case directs the biscomaun as well as employees' provident fund organization to pay Rs. 50,000/- each to the petitioner in lieu of pension as there is failure on their part in discharging their responsibility not only by Biscomaun but also by EPFO and as a result of their lapse, the petitioner has been deprived of the benefit of pension scheme.

10. Payment of cost as indicated hereinabove shall be paid to the petitioner within a period of three months, failing which it will carry interest @ 90% from the date of filing of writ petition i.e. 26.9.2018 to the date of actual payment.

11. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

U			
---	--	--	--

