

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 963 of 2018

Shahida Begum Wd/o Late Ajwant Ali Aged About 48 Years R/o Khongapani, Chhappan Dafai, District Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioner

Versus

1. Shri Vinay Kumar Choudhary Manager, South Eastern Coalfields Limited, Palkimada Colliery, District Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
2. Shri Mahendra Singh, Commissioner, C. M. P. F. South Eastern Coalfields Limited, Gupteshwar, District Jabalpur, Madhya Pradesh., District : Jabalpur, Madhya Pradesh

---- Respondents

For Petitioner	:	Shri Navin Shukla, Advocate
For Respondent No.2	:	Shri Ravi Ranjan Sinha, Advocate

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/02/2020

1. This contempt petition has been filed alleging willful disobedience of the order dated 21.11.2016 passed in WPS No.7198 of 2007 whereby this Court had directed the official/respondent No.5 therein to release entire amount of provident fund lying in the credit of Late Ajwant Ali, to the petitioner forthwith without any further delay.
2. In the contempt petition, it was alleged that despite order of the Court, the amount which was lying balance in the credit of Late Ajwant Ali is not being released. Upon issuance of notice, reply has been filed by respondent No.2, preset incumbent in the office of Regional Commissioner-II, Coal Mines Provident Fund, South Eastern Coalfields

Limited, Gupteshwar, Jabalpur that the balance amount was already released in favour of petitioner -Shahida Begum on 30.5.2003 and others namely Momin Ali and Rahim Bux on 22.6.2009 vide cheque amount receipts No. 388713, 388714 dated 22.6.2009 vide Annexure R-2/4 and R-2/5.

3. Though this Court passed the final order in the pending writ petition WPS No.7198 of 2007, the order was based on the factual assertion made by respective parties in their affidavit and counter reply particularly taking into consideration what was stated by respondent No.-5 in para-7 of his return that an amount equal to 1/3rd of the CMPF accumulation in the account of Late Ajwant Ali was paid to the writ petitioner and rest of the amount has been lying with the respondent authority and the same is payable to the family members of the deceased employee as per provision of Annexure R/5-1. The averments made in para-7 of the return of respondent No.5 in WPS No.7198 of 2007 are as below:

“7. In light of the above humble submissions, it is humbly submitted that, because of the fact that, the claim of the petitioner as duly forwarded by the employer authorities of Late Ajwant Ali, an amount equal to 1/ 3rd of the CMPF accumulation in the account of late Ajwant Ali was paid to the petitioner, as already submitted herein-before, rest of the amount has been lying with the answering respondent authorities and the same is payable to the family members of the deceased employee, as per provisions of Annexure R/5-1. Since there is a controversy as to who, are the real family members of the deceased employee, entitled to above payment, the answering respondent authorities have not paid the balance amount till now. They hereby undertake to make payment, as they are duty bound to do so, as per

directions of this Hon'ble Court, as and when directed to do so"

The aforesaid affidavit on behalf of respondent No.5 was filed by one Saroj Kumar Dubey, Officer In-Charge in the Office of Regional Commissioner, CMPF, Jabalpur (MP), on 26th August 2009.

4. In view of what has now been stated before this Court in reply to the contempt petition, it is clear that on 26.8.2009, the actual amount stood already released in favour of different claimants including the petitioner and nothing was lying to the credit of Late Ajwant Ali in his CMPF.

Prima facie, a false affidavit was filed before this Court on behalf of respondent No.5 by OIC of the case Mr. Saroj Kumar Dubey.

Let a separate contempt proceeding be registered against Saroj Kumar Dubey, S/o I.N. Dubey, CMPF office, Jabalpur (MP) and the same be listed for appropriate orders.

5. This Court vide order dated 21.11.2016, passed in WPS No.2198 of 2007 held that the petitioner, the widow of the deceased employee, was entitled to entire amount lying in the credit of Late Ajwant Ali. However, the balance amount i.e. 2/3rd of the provident fund has not been paid to the petitioner by stating that 2/3rd amount lying in the provident fund of Late Ajwant Ali has been released in favour of respondents No. 8 & 9 in the writ petition. The respondent No.5 i.e. Commissioner, CMPF, South Eastern Coalfields Ltd. is obliged under the law to comply with the direction of the Court. If the remaining 2/3rd amount has already been released in favour of respondents No. 8 & 9 in the writ petition, it is open for respondent No.5 to make recovery from those persons in the manner permissible under the law. But for that reason, the compliance of the direction of the Court cannot be kept in abeyance. The petitioner would be entitled to payment of that amount which was wrongly released in favour of respondents No. 8 & 9 in the writ petition. It would be open for respondent No.5 to initiate recovery proceeding against respondents No.8 & 9 in the writ petition as they were not entitled to

that amount under the law. They did not even appear before this Court when order dated 21.11.2016 was passed. It would be open for respondent No.5 to make recovery against respondents No.8 & 9 in the writ petition as arrears of land revenue. It is, however, made clear that pendency of any recovery proceeding would not be a justification for delaying payment of the balance amount to the petitioner. If the petitioner is not paid balance amount within a period of 60 days from the date of receipt of copy of this order which is now being passed, the petitioner would be at liberty to revive contempt petition against the preset incumbent in the office of Commissioner/respondent No.5 in the writ petition.

6. It goes without saying that interest part as observed by this Court earlier will also be liable to be paid to the petitioner.
7. The petition is accordingly disposed off with the aforesaid observation/direction.

Sd/-
(Manindra Mohan Shrivastava)
Judge