

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 351 of 2021

1. Chairman Chhattisgarh State Electricity Board Vidyut Seva Bhawan, Dangania, Raipur Chhattisgarh Pin 492013 through Chhattisgarh State Power Distribution Co. Ltd. (Incorporated As Per Section 131, To 134 Of Electircity Act, 2003 And Now Responsible For Power Distribution) Represented By Suresh Kumar Jangde, Aged 45 Years S/o Shri M. R. Jangde, Executive Engineer City Division 2, Nehru Nagar CSPDCL Bilaspur Chhattisgarh
2. The Executive Director (Bilaspur Region) Chhattisgarh State Electricity Distribution Company Ltd. Tifra, Bilaspur Chhattisgarh through Chhattisgarh State Power Distribution Co. Ltd. (Incorporated As Per Section 131, To 134 Of Electircity Act, 2003 And Now Responsible For Power Distribution) Represented By Suresh Kumar Jangde, Aged 45 Years S/o Shri M. R. Jangde, Executive Engineer City Division 2, Nehru Nagar CSPDCL Bilaspur Chhattisgarh
3. The Executive Engineer Chhattisgarh State Electricity Distribution Company Ltd. (Town) Division 2, West Nehru Nagar, Bilaspur through Chhattisgarh State Power Distribution Co. Ltd. (Incorporated As Per Section 131, To 134 Of Electircity Act, 2003 And Now Responsible For Power Distribution) Represented By Suresh Kumar Jangde, Aged 45 Years S/o Shri M. R. Jangde, Executive Engineer City Division 2, Nehru Nagar CSPDCL Bilaspur Chhattisgarh

---- Appellants

Versus

1. State of Chhattisgarh Through Chairman and Special Secretary, Energy Department, Mantralaya, Atal Nagar, New Raipur Chhattisgarh
2. Smt. Indu Khandey W/o Late Vishnu Khandey Aged About 29 Years R/o Village Kisan Parsada, Tehsil Masturi P.S. Masturi, District Bilaspur Chhattisgarh

---- Respondents

(Cause Title has been taken from Case Information System)

For Appellants	:	Mr. Raja Sharma, Advocate
For Respondent No.1/State	:	Mr. Shubham Verma, Panel Lawyer
For Respondent No.2	:	Mr. Anish Tiwari, Advocate

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri Goutam Bhaduri, Judge

Judgment on Board

Per Arup Kumar Goswami, Chief Justice

24.11.2021

Heard Mr. Raja Sharma, learned counsel for the appellants. Also heard Mr. Shubham Verma, learned Panel Lawyer for the State appearing for respondent No.1 and Mr. Anish Tiwari, learned counsel appearing for respondent No.2.

2. This writ appeal is filed against an order dated 13.09.2021 passed by the learned Single Judge in WPS No.4843 of 2021, whereby, the learned Single Judge disposed of the matter giving the following directions :

“4. The writ petition accordingly stands disposed of directing the respondents No.2 to 4 to process the entire claim of the petitioner and to settle the death-cum-retiral dues payable to the petitioner upon the death of her husband within an outer limit of 90 days from the date of receipt of the copy of this order, which shall include payment of arrears of all outstanding dues from the date of death till the date of actual payment. In case if the payments are not cleared within a period of 90 days, the entire amount payable to the petitioner shall carry interest @10% per annum from the date of death till the date of actual payment.”

3. Mr. Sharma submits that though direction was issued to respondents No. 2 to 4 to process the entire claim of the petitioner and to settle the death-cum-retiral dues on account of death of employee, namely, Vishnu Khandey, no notice was issued to respondents No. 2 to 4 and as such, respondents No.2 to 4 had no opportunity to contest the case of the petitioner. It is further submitted that the status of the writ petitioner, as a sole legal heir of the deceased employee, is sub-judice before the Civil Court and there are apparently, other legal heirs. It is in that circumstance, it is submitted by him that direction to pay death-cum-retiral dues including payment of arrears of all outstanding dues to the petitioner is not sustainable in law.

4. Mr. Anish Tiwari, learned counsel appearing for the writ petitioner submits that it does not appear that notices to the respondents No.2 to 4 were issued or that they were heard.

5. A perusal of the order of the learned Single Judge goes to show that for the petitioner, Mr. Chitendra Singh, learned Advocate had appeared and for the State, Smt. Binu Sharma, learned Panel Lawyer had appeared.

6. Admittedly, respondents No. 2, 3 and 4 are not under the State Government as Chhattisgarh State Electricity Board is a separate entity.

7. In that view of the matter, we are of the considered opinion that an opportunity ought to have been granted to respondents No. 2 to 4 to put forth their version of the case before the writ petition was disposed of. Passing of the order, without notice to respondents No. 2 to 4, has resulted in violation of principles of natural justice.

8. In that view of the matter, the order of the learned Single Judge is set aside and the matter is remanded back for fresh consideration.

9. We, however, hasten to add that we have not expressed any opinion on the merits of the case of either of the parties.

10. Resultantly, the writ appeal is allowed. No cost.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge

Chandra