

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21359 of 2011

Mostt.Sunaina Devi W/O Late Anandi Mandal R/O Village- Ratanpur, Via
Bariarpur, P.S.- Ram Nagar, District- Munger

... .. Petitioner

Versus

1. The Chairman, Bihar State Electricity Board, Patna.
2. The Secretary Of Bihar State Electricity Board, Patna.
3. The Joint Secretary Of Bihar State Electricity Board, Patna.
4. General Manager Of Thermal Power, Barauni, Begusarai.
5. The General Manager-Cum-Chief Engineer Barauni Thermal Power,
Begusarai
6. Deputy Personal Director, Barauni Thermal Power, Begusarai

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Santosh Kumar Singh, Advocate
For the Respondent/s	:	Mr.Vinay Kirti Singh, Sr. Advocate
		Mr.Vijay Kumar Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 20-02-2023 Heard learned counsel for the petitioner and Mr. Vinay Kirti Singh, learned senior counsel assisted by Mr. Vijay Kumar Verma, learned counsel for the Bihar State Power Generation Company Ltd. (one of the companies formed during pendency of the writ application after restructuring of the erstwhile Bihar State Electricity Board).

Petitioner in the present case is the wife of one Anandi Mandal who was working as Assistant Operator/ Technical III in the erstwhile Bihar State Electricity Board (hereinafter referred to as the “Board”) at Barauni Thermal Power Station, Barauni. He is said to have joined the service on 16.05.1984 but



admittedly left attending his office on or after 21.12.1993. From the statements made in Paragraphs '9' and '10' of the writ application it is an admitted position that the husband of the petitioner was proceeded against in a disciplinary proceeding. A Memo of charge was served upon him and in the said disciplinary proceeding the Inquiry Officer found him guilty of the charges which are of his misconduct. Ultimately, the disciplinary authority passed an order of punishment vide office order No. 470 dated 21.12.1999 with effect from 23.12.1993 i.e. the date since when the husband of the petitioner was absenting. From the letter bearing no. 515 dated 15.07.2010 issued under the signature of Joint Secretary, Department of General Administration of the Board addressed to General Manager-cum-Chief Engineer, Barauni Thermal Power Station it would appear that the terminal benefits of the husband of the petitioner has been allowed keeping in view his date of termination with effect from 23.12.1993.

Learned counsel for the petitioner does not dispute that the fact that the husband of the petitioner was subjected to departmental proceeding and was dismissed from service was well known to the petitioner. There is no averment in the writ application that the fact that the husband of the petitioner went



missing since 23.12.1993 was informed to the police station or was intimated to the Board at the relevant time. Even in course of argument, learned counsel for the petitioner is unable to show that the petitioner had ever informed this fact as to missing of her husband to any investigating agency or the employer.

Mr. Vinay Kirti Singh, learned senior counsel for the erstwhile Board has submitted that in the given facts and circumstance where the service of the husband of the petitioner has been terminated and the termination order is not under challenge, the prayer of the petitioner to direct the respondents to grant all benefits including family pension, GPF, gratuity etc. are not tenable. Learned senior counsel, however, accepts the legal position that so far as the date of termination is concerned, it would be only from the date of communication of the order of termination which in this case would be 21.12.1999.

In the given facts of this case where the husband of the petitioner remained absent from work since 23.12.1993, he was subjected to disciplinary proceeding in which his service was terminated as back as on 21.12.1999 and the admitted amount on account of GPF and GSS have already been paid to the petitioner, this Court finds no ground to direct the respondents to pay anything more to the petitioner. However, in



view of the settled legal position that there cannot be a termination with retrospective effect, the date of termination will be taken with effect from 21.12.1999.

This Court is, therefore, of the considered opinion that the admissible benefits payable to the petitioner be calculated at the earliest taking the date of termination of the husband of the petitioner as 21.12.1999. In case, because of shifting of date of termination any monetary benefit accrues to the petitioner, the same shall be paid within a period of three months from the date of receipt/ communication of a copy of this order.

This writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

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