

27.06.2023

Ct. No.12

Sl. No.5

akd

W.P.C.T. 52 of 2023

Arati Rani Goswami

Vs.

Union of India & Ors.

Mr. Anirban Dutta

Mr. Lal Ratan Mondal

Ms. Sk. Kiran

... .. for the petitioner

Mr. Pulakesh Bajpayee

... for the respondents

The petitioner's husband while serving in Railways retired on 31.07.2007 and died on 26.04.2013. He was drawing pension till the time of his death. The respondents did not sanction and grant family pension on the ground that the husband of the petitioner declared during service that he had two wives, the petitioner and one Arati Goswami. The said Arati Goswami also made a claim for family pension.

The petitioner filed OA 1146 of 2014 before the Tribunal for grant of family pension in her favour. The Tribunal by the order dated 11.01.2016 directed the respondents to pay family pension to the petitioner. The respondents filed WPCT 113 of 2016 challenging the order of the Tribunal dated 11.01.2016. The said writ petition was allowed setting aside the order dated 11.01.2016. Subsequently, the petitioner filed Title Suit being T.S. No. 186 of 2016 on the file of learned Civil Judge (Junior Division) at Lalbagh, Murshidabad. The other wife, Arati Goswami also filed Title Suit being T.S. No. 263 of 2016 on the file of learned Civil Judge at Rampurhat, Birbhum. The said Title Suit filed by Arati Goswami was dismissed for non-prosecution.

The Title Suit being T.S. No. 186 of 2016 filed by the petitioner before the learned Civil Judge (Junior Division) at Lalbagh, Murshidabad was disposed of by the Lok Adalat on 05.02.2018 directing the respondents to pay family pension to the petitioner.

The respondents after sanctioning family pension to the petitioner paid family pension only on 19.04.2019 together with arrears of family pension. The petitioner sought for interest from 26.04.2013 till 19.04.2019 on the ground that family pension is payable immediately on the death of the employee and due to delayed payment the petitioner is entitled to interest. The said claim was rejected by the respondents.

The petitioner challenged the said order and filed Original Application. The Tribunal considering the materials placed before it dismissed the Original Application by the order dated 06.01.2023 taking into consideration the stand taken by the respondents.

Against the said order of dismissal dated 06.01.2023 passed in OA 187 of 2020, the petitioner has come out with the present writ petition.

From the above materials, the following are admitted facts:-

- i) The petitioner's husband retired from service on 31.07.2007 and died on 26.04.2013.
- ii) He had two wives, the petitioner herein and one Arati Goswami.
- iii) Both made claim for family pension.
- iv) OA 1146 of 2014 filed by the petitioner was allowed directing the respondents to pay family pension to the petitioner.

- v) The said order was set aside by this court in WPCT 113 of 2016.
- vi) Both the petitioner and other wife, Arati Goswami filed T.S. No. 186 of 2016 and T.S. No. 263 of 2016 respectively.
- vii) T.S. No. 263 of 2016 filed by Arati Goswami was dismissed for non-prosecution and in the suit being T.S. 186 of 2016 filed by the petitioner, by order dated 05.02.2018 passed in Lok Adalat, the respondents were directed to pay family pension to the petitioner.
- viii) The respondents paid the family pension with arrears to the petitioner on 19.04.2019.

From the above facts it is clear that due to dispute between two wives after the death of the employee, the respondents could not pay family pension to the petitioner. Only on 05.02.2018 the respondents were directed to pay family pension to the petitioner. The respondents did not pay the family pension immediately or within a reasonable time. The respondents paid the family pension with arrears only on 19.04.2019 i.e. after 14 months from the date of the order passed in Lok Adalat i.e. on 05.02.2018. Till 05.02.2018, there was a dispute between two wives, the petitioner herein and the other wife, Arati Goswami and on that date the petitioner became entitled to family pension.

In view of the dispute between two wives till 05.02.2018, the petitioner is not entitled to interest from 26.04.2013 till 05.02.2018. The respondents have paid family pension after the

order of the Lok Adalat on 19.04.2019 and therefore, the respondents are liable to pay interest on the arrears of family pension from 05.02.2018 to 18.04.2019.

The order of the Tribunal dismissing the Original Application is modified to that effect.

The respondents are directed to pay interest at the rate of 9% p.a. from 05.02.2018, as directed above, within a period of eight weeks from the date of receipt of this order.

With the aforesaid directions, the writ petition is partly allowed.

There shall be no order as to costs.

Urgent xerox certified copy of this order, if applied for, be given to the parties on usual undertaking.

(V. M. Velumani, J.)

(Rai Chattopadhyay, J.)