

13th January, 2023
Ct. 1
D/L 02
(SKB)

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

W.P.A.1053 of 2022

Maya Adhikari @ Maaya Adhikari
Versus
The Union of India and others

Mr. Subhasish Misra
... for the petitioner.

Mr. Subir Kumar Saha,
Mr. Bikramaditya Ghosh
... for the State.

The affidavit of service is taken on record.

The petitioner's husband worked in the capacity of a handling labourer in the Food Corporation of India. The petitioner's husband died on 12.02.2019. The petitioner, as the wife of the deceased employee of the Food Corporation of India, seeks disbursement of the death-cum-retirement benefits including provident fund, gratuity and family pension from the Food Corporation of India.

The reason for withholding the retirement benefits of the petitioner's husband was pendency of a criminal case. However, the judgment of the learned Judicial Magistrate, Cooch Behar dated 20th December, 2021 ordered that the petitioner's husband was one of five persons against who the prosecution could not establish any guilt under the charged sections of the Indian Penal Code.

It is evident from the material before the court that Food Corporation of India does not have any defence to the petitioner's claim as the wife of the deceased employee/worker of Food Corporation of

India. Even if the judgment has been challenged, that also would not amount to a defence since death and retirement benefits cannot be withheld without a recourse in law. In the present case, the Food Corporation of India has not been able to show any defence in law.

The writ petition succeeds in view of the above reason.

W.P.A.1053 of 2022 is allowed and disposed of with a direction on the Food Corporation of India and particularly, the Divisional Manager, Food Corporation of India, Cooch Behar being respondent no.6 to disburse the retirement benefits in entirety including all its components to the petitioner within a period of 12 weeks from date. The amount shall be paid along with interest of 6% per annum from 12.02.2019 i.e. when the petitioner's husband died.

The writ petition is accordingly disposed of.

There will be no order as to costs.

Urgent certified copy of this order, if applied for, be made available to the parties upon compliance of the requisite formalities

(Moushumi Bhattacharya, J.)