

10th January, 2022
Ct. 1
D/L 8
(SKB)

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

W.P.A.3402 of 2022

Malati Roy
Versus
The Union of India and others

Mr. Subhasish Misra,
Mr. Swarup Das
... for the petitioner.

Mr. Suman Saha,
Ms. Kanika Sarkar
... for respondent nos.5 to 7.

Mr. Sudipto Kumar Mazumdar, D.S.G.I.
Mr. Sourab Kar
... for the U.O.I.

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 in a road accident on 14th March, 2003. 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 of significance that by a communication dated 28th December, 2015 of the Food Corporation of India, it was recorded that stoppage of death claim in respect of the petitioner's husband and one other person, both handling labours, was required to be reviewed considering the gravity of non-payment of statutory benefits without valid reason.

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.3402 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 @ 6% per annum from 14th March, 2002 i.e. when the petitioner's husband died in the road accident.

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.)