IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) 7739/2022

Smt. Satyabhama w/o Purushottam Reddy,
Aged about : 70 years, Occ. Retired,
R/o 445-A, Purushottam Niwas,
Mohan Nagar, Nagpur. ..... PETITIONER

// VERSUS //

1. Director of Accounts (Postal),
Maharashtra, Akashwani Chowk,
Nagpur.

2. The Accounts Officer,
C/o Directorate of Accounts (Postal),
Maharashtra, Akashwani Chowk,
Nagpur.

3. Union of India,
through Department of Post,
Dak Bhawan, New Delhi. .... RESPONDENT(S)

Mr. P.D. Meghe, Advocate for the petitioner
Mr. N.S. Deshpande, Deputy Solicitor General of India for respondents

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CORAM : ROHIT B. DEO AND
Y.G. KHOBRAGADE, J.J.

DATED : 01/02/2023

ORAL JUDGMENT : (PER:- ROHIT B. DEO, J.)

Rule. Rule made returnable forthwith. Heard finally by consent.

2. The petitioner is assailing the action of respondent 1 – Director of Accounts (Postal), Nagpur of withholding the family pension of the deceased husband of the petitioner Mr. Purushottam Reddy. She is further seeking a direction to respondent 1 – Director of Accounts (Postal) that the arrears of the family pension receivable by the petitioner in terms of the pension payment order dated 09.09.2003, be paid. She is further seeking a direction to the respondents to pay interest on the amount of gratuity payable to the petitioner which according to her was illegally withheld from 01.12.2012 till 01.01.2022 (Date is incorrectly mentioned as 01.01.2021 in the prayer clause) and further a direction that interest be paid on the General Provident Fund (GPF) amount of Rs.2,11,171/- for the period from 05.08.2003 till 01.10.2021.

3. The petitioner avers that her husband Mr. Purushottam Reddy was working as a Senior Accountant with respondent 1 – Director of Accounts (Postal). Mr. Purushottam Reddy and the petitioner entered into matrimonial alliance in June 1987. At that time, the petitioner was also working on the establishment of respondent 1 – Director of Accounts (Postal). Mr. Purushottam Reddy unfortunately expired on 04.08.2003. Respondents 1 and 2 did issue an order of payment of pension and gratuity in favour of the petitioner, on 09.09.2003.

According to the petitioner, the General Provident Fund was not paid to her by respondents 1 and 2 on the ground that the nominee was the mother-in-law of the petitioner. The petitioner contends that since the nomination of her mother-in-law was made prior to her marriage with Mr. Purushottam Reddy, the General Provident Fund ought to have been paid to the petitioner and her children from marriage with Mr. Purushottam Reddy.

4. The petitioner submits that in view of the refusal of respondent 1 – Director of Accounts (Postal) to release the amount of the General Provident Fund in favour of the petitioner and her two daughters, she approached the learned Central Administrative Tribunal (CAT) in Original Application 844/2003. The learned CAT restrained the respondents from releasing the amount of General Provident Fund in favour of her mother-in-law Smt. Subhadrabai Reddy and ultimately disposed of the original application vide order dated 23.07.2004 observing that the issue involves the distribution of property of male Hindu who died died intestate, and the petitioner should approach the Civil Court. The petitioner challenged the order of the learned CAT in Writ Petition and the High Court refused to interfere. The petitioner and her two daughters filed Special Civil Suit 739/2004, to which suit her

mother-in-law was impleaded. The petitioner's mother-in-law Smt. Subhadrabai Reddy appeared and lodged counter-claim seeking declaration that the petitioner was not the legally wedded wife of the her son Mr. Purushottam Reddy. The mother-in-law claimed that the retiral benefits of her son be paid to her. The learned Trial Court decreed the suit partly. The daughters were held entitled to share in General Provident Fund. The learned Trial Court further held that the petitioner was not the legally wedded wife of Mr. Purushottam Reddy. The respondents herein were restrained from disbursing the family pension of late Mr. Purushottam Reddy to the petitioner.

5. The petitioner challenged the order of the learned Trial Judge in First Appeal 477/2009. The petitioner submits that in the interregnum, after the judgment and decree rendered by the learned Trial Judge, the respondents stopped the pension. According to the petitioner, while the respondents may have been justified in not making the payment of share of the petitioner, there was absolutely no reason for the respondents not to release the shares of the two daughters. The petitioner preferred Civil Application 2226/2009 which the High Court allowed. The respondents were directed to pay the family pension to the petitioner and her two daughters. The order dated 16.09.2009 in Civil

Application 2226/2009 was, however, partly recalled and the petitioner was directed to furnish bank guarantee to the tune of Rs.7,50,000/- and the payment of family pension was made subject to the furnishing of such bank guarantee. The petitioner was not in a position to comply with the condition, with the result that neither the petitioner nor her two daughters received the family pension from 01.07.2011.

6. According to the learned Counsel for the petitioner, she retired on 30.11.2012 and to her great shock, the respondents withheld the amount of Rs.7,50,000/- which was due and payable to the petitioner as gratuity. The petitioner is emphasising that whatever may be the dispute between she and her mother-in-law as regards the shares in the retiral benefits of her deceased husband, the gratuity amount receivable by the petitioner in her own independent right as an employee of the respondents could not have been withheld.

7. The petitioner submits that First Appeal 472/2009 came to be transferred to the District Court in view of the enhancement of the pecuniary jurisdiction and re-numbered as Regular Civil Appeal 112/2012, which the learned Appellate Court allowed vide judgment and decree dated 16.08.2021. The petitioner submits that in view of the judgment in appeal, which declared the petitioner as the legally wedded

wife of the deceased Mr. Purushottam Reddy, there is no impediment in allowing the petition in its entirety.

8. An affidavit in response is filed on behalf of respondent 1 – Director of Accounts (Postal). In all fairness to the learned Deputy Solicitor General of India, Mr. N.S. Deshpande, there is no serious rebuttal to the contention of Mr. Meghe that the gratuity to which the petitioner was entitled in her own right as an employee, and which had nothing to do with the dispute touching the retiral benefits of her husband, could not have been retained. So for as the withholding of the family pension of Mr. Purushottam Reddy is concerned, according to the respondents the family pension was withheld from 01.07.2011 in view of the failure of the petitioner to comply with the direction of the High Court to furnish bank guarantee in the sum of Rs.7,50,000/-. The respondents have expressed willingness to release the arrears of family pension w.e.f. 01.07.2011 in favour of the petitioner.

9. In so far as, withholding the General Provident Fund is concerned, the explanation is that there was no nomination in favour of the petitioner and that the learned CAT directed the petitioner to have the issue resolved in the Civil Court. The respondents assert that the amount of the General Provident Fund was released in favour of the

petitioner after the judgment and decree rendered by the learned Appellate Court.

10. Considering the fair stand of the respondents, we see no difficulty in allowing the petition partly.

11. We accept the explanation of the respondents for the delay in releasing the mount of family pension and the General Provident Fund. We do not see any deliberate or *mala fide* intention. We, therefore, direct the respondents to release in favour of the petitioner the arrears of family pension from 01.07.2011 and to pay the petitioner regular pension within eight weeks from the date of receipt of this order. If the arrears of pension are not released within the said period, entire amount shall attract interest at the rate of 6% per annum from 01.07.2011.

12. In so far as withholding the amount of gratuity is concerned, we find that there was absolutely no reason much less rational for withholding the gratuity which was payable to the petitioner in her own independent right as an employee. The dispute between the petitioner and her mother-in-law had nothing to do with the retiral benefits of the petitioner. The dispute was restricted to the retiral benefits of the deceased husband of the petitioner.

13. In this view of the matter, we direct that the petitioner be paid interest at the rate of 6% per annum on the amount of gratuity withheld from 01.12.2012 till 01.01.2022, within eight weeks from the date of receipt of this order.

14. The petition is partly allowed in the aforestated terms. No costs.

(Y.G. KHOBRAGADE, J.) **(ROHIT B. DEO J.)**

SANDIP
MAHADEV
GATE

Personal Assistant to the Hon'ble Judge
Digitally signed by SANDIP MAHADEV GATE
Date: 2023.02.24 15:35:15 +0530