IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14126 of 2023

==

Meghna Manchanda D/o Late Sonia Manchanda, C/o Sri V.K Manchanda, R/o 62. Awas Apartment, Boring Canal Road (East) District Patna. At Present R/o Flat No. 201, Tower 9. Paras Tierea, Near Felix Hospital, P.S. Gautam Budh Nagar, Distt. Gautam Budh Nagar, Uttar Pradesh.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Science and Technology, Goverment of India, New Delhi-110001.
2. The Under Secretary, Department of Bio Technology, the Ministry of Science and Technology, Government of India, New Delhi-110001.
3. The Secretary, Ministry of Finance, Government of India, New Delhi - 110001.
4. The Deputy Director Policy, Ministry of Housing and Urban Affairs Directorate of State, Nirman Bhavan, New Delhi - 110001.
5. The Authorised Officer, Central Pension Accounting Office, Department of Expenditure, Ministry of Finance, Government of India, New Delhi-110001.
6. The Officer-In-Charge/Director, Directorate of Estate, Nirman Bhawan, New Delhi - 110001.
7. The Assistant Director of Estate, Directorate of Estate, Nirman Bhawan, New Delhi - 110001.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Srivastava, Adv.
		Mr.Shashwat Srivastava, Adv.
		Ms.Rajnigandha, Adv.
For Union of India	:	Mr.Bindhyachal Rai, Sr. Panel Counsel

==

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 22-08-2024

Petitioner is legal heir of deceased Sonia Manchanda, while deceased was working with the respondents-Department she had died on 09.01.2003. She was due for retirement on 31.08.2025. She was allotted government accommodation on rental basis. Deceased-employee failed to pay arrears of rent. Resultantly, respondents have withheld Rs. 94,240/- from the gratuity amount. Such adjustment of any dues of the deceased employee could be made only under the Central Civil Services (Pension) Rules, 1972 (for short Rules, 1972). Rule 71 of Rules, 1972 reads as under:-

> ***71. Recovery and adjustment of Government dues-****(1) It shall be the duty of the Head of Office to ascertain and assess Government dues payable by a Government servant due for retirement.*
>
> *(2) The Government dues as ascertained and assessed by the Head of Office which remain outstanding till the date of retirement of the Government servant, shall be adjusted against the amount of the retirement gratuity becoming payable-*
>
> *(3) The expression "Government dues" includes,-*
>
> *(a) dues pertaining to Government accommodation including arrears of licence fee, [as well as damages (for the occupation of the Government accommodation beyond the permissible period after the date of retirement of allottee] if any;*
>
> *(b) dues other than those*

pertaining to Government Accommodation namely, balance of house building or conveyance or any other advance, over-payment of pay and allowance or leave salary and arrears of income tax deductible at source under the Income Tax Act, 1961 (43 of 1961).

2. Adjustment of dues of the deceased employee was only after her death with reference to gratuity amount which was due to her and which were required to be released in favour of the legal heir of the deceased employee.

3. It is necessary to reproduce Rule 2 of Rules, 1972 and it reads as under:-

> ***(2) Grant of pensionary benefits to temporary/quasi-permanent Government servants.-*** *1. The undersigned is directed to State that in pursuance of Government decisions on the recommendations of the fourth Central Pay Commission announced in this department's Resolution No. 2.13.87-PIC, dated 18th March, 1987, the President and quasi-permanent Government servants shall be modified as follows:*
>
> *2. Terminal benefits.- (1) In partial modification Department of Personnel and Administrative Reforms Office Memorandum No. 38(16)-Pension Unit 80, dated 30th December, 1980, quasi-permanent and temporary employees,*

who retire on superannuation or on being declared permanently incapacitated for further Government service by the appropriate medical authority after having rendered temporary service of not less than 10 years, shall be eligible for grant of superannuation/invalid pension, retirement gratuity and family pension at the same scale as admissible to permanent employees under the C.C.S. (Pension) Rules, 1972.

(2) Temporary and quasi-permanent employees who seek voluntary retirement after completion of 20 years of service shall continue to be eligible for retirement pension and other pensionary benefits like death-cum- retirement gratuity and family pension under C.C.S. (Pension) Rules, 1972 in terms of this Department's O.M. No. 32/1/86 P. & P.W. dated 30th September, 1986.

(3) In cases not covered by paragraphs 2.1 and 2.2 above the terminal benefits will continue to be admissible as at present under the C.C.S. (Temporary Service) Rules, 1965.

3. Death benefits.- In the event of death in harness of temporary/ quasi-permanent Government servants their families shall be eligible to family person and death gratuity on the same scale as admissible to families of permanent Government servants under the CCS (Pension) Rules, 1972.

4. Formal amendment C.C.S. (Pension) Rules, 1972 and C.C.S. (Temporary Service) Rules, 1965 will be issued separately.

5. The provisions this of Office memorandum shall apply to those temporary and quasi-permanent Government servants who are/were in service on 1.1.1986.

6. These order issue in consultation with the Ministry of Finance, Department of Expenditure vide their U.O. No. 674-EV/1987, dated 31.3.1987.

7. In their application to persons serving in the Indian Audit and Accounts Department these orders issue after consultation with the Comptroller and Auditor General of India. [G.I., Deptt. P & P.W. Memo, No. 2.4.1987-IPC, dated 14.4.1987].

4. Combined reading of Rule 2 read with Rule 71 of Rules, 1972 question of adjustment of gratuity amount towards rental dues of the deceased employee is not permissible for the reasons that deceased employee was not alive as on the date of such adjustment order. Rules 1972 is not applicable to legal heirs of the deceased employee as is evident from Rule 2 read with Rule 71 of Rules 1972. Therefore, adjustment of gratuity amount of Rs. 94,240/- towards rental dues of the deceased employee on behalf of the respondents is

impermissible. The same has not been taken note of and appreciated by the CAT while dismissing the original application of the petitioner.

5. In the light of the aforementioned legal position, the respondents are not empowered to adjust gratuity amount towards rental dues of the deceased employee. Therefore, the respondents are hereby directed to release the gratuity amount of Rs. 94,240/- along with interest at the rate of 6% per annum from the date it was due to the legal heir/petitioner from 01.04.2003 till actual payment is made. The above exercise shall be completed within a period of three months from the date of receipt of this order, reserving liberty to the respondents to resort appropriate remedy insofar as recovery of rental dues of the deceased employee in the manner known to the law.

6. At this stage, learned counsel for the respondents submitted that legal heir of deceased employee/petitioner stayed back in the rental accommodation of the deceased employee from 09.01.2003 to 01.05.2005. Rental fees for the aforementioned period shall be recovered from the legal heir/petitioner or in alternative petitioner is hereby directed to calculate normal rent for the aforementioned period and settle

the dues of the respondents within a period of two months from the date of receipt of this order.

7. Accordingly CAT order passed in O.A. No. 050/00143/2023 is set aside. CWJC No. 14126 of 2023 is allowed in part.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.08.2024
Transmission Date	N.A.