

29.02.2024
Court No.13
Item No.120
AP

WPA 22776 of 2023

**Sova Bhandari
Vs.
Union of India and Ors.**

Mr. Pankaj Halder
Mr. Tapas Manna
Mr. Neelabha Bera
Mr. Bidish Ghosh

... For the Petitioner.

Mr. Tirthapti Acharyya

... For the Union of India.

Mr. Kamal Kr. Chattopadhyay

... For the Respondent Nos.2 to 4.

1. The respondent No.5 is not represented in these proceedings.

2. FCI has filed a report and the same is taken on record.

3. The service of the petitioner's husband with the FCI as, "Handling labour" was terminated on 19th May, 2016 under Clause 16(2)(c)(i) of the service rules, for abandonment of service.

4. Admittedly, the petitioner's husband was mentally unsound and was found dead on 4th September, 2018 and abandoned away from his residence. The husband had served with the FCI from the year 1986. The petitioner was paid terminal benefits on account of service of her husband after his death.

5. Counsel for the writ petitioner submits that his client does not claim any interest for the delayed payment of retiral benefits. The petitioner claims FPS pension, arrear of pension and interest thereon

6. The corporation is stated to have forwarded the request of the employee on 3rd March, 2018 for submission of documents for release of pension under the EPS scheme of 1995. No reply was received from the husband. The writ petitioner was requested on 28th November, 2019 to submit such documents, which she did on 25th July, 2019. The FCI is stated to have thereafter forwarded the said papers to the EPS authorities on 29th September, 2020.

7. The FCI is, therefore, liable to pay interest on the pension payable on account of the death of the writ petitioner's husband from 28th November, 2019 till 29th September, 2020. The EPS authorities thereafter sat tight on the matter and till date, pension has not been released.

8. It is explained in a report filed in Court by the FCI that there was some communication between RPFC and FCI authorities. The FCI authorities at Dankuni delayed submission of papers to the zonal office of the FCI at Kolkata. The FCI finally submitted clarification to the EPF authorities on 13th October, 2023.

9. This Court notes that irrespective of who is responsible for the delay in processing of pension papers of the deceased employee, Amoy Bhandary, the writ petitioner is entitled to receive interest from the date of submission of her documents i.e. 25th July, 2019 till the date of actual payment of arrear of pension. It does not appear that the PPO has at all been issued by the EPF authorities to the writ petitioner till date. In these circumstances this Court directs as follows:-

10. The Commissioner EPS under the RPFC Kolkata shall issue PPO to the writ petitioner, if not already so done, mandatorily and positively within a period of three weeks from the date of receipt of a copy of this order. The writ petitioner shall be entitled to arrears of pension from the date of termination of her late husband from service i.e. 19th May, 2016 till his death i.e. on 4th September, 2018 and the writ petitioner shall be paid all arrears of family pension from 5th September, 2018 till the date of actual payment.

11. The quantum of arrears of pension to the writ petitioner from July 2019 till date of issuance of PPO shall be paid to the writ petitioner together with interest at the rate of 8% per annum by the Commissioner EPS under the RPFC Kolkata. In default of payment, within the time stipulated, the rate of interest shall stand increased to 11% per annum.

12. Any sum that are require to be deposited by the petitioner may be adjusted from such arrears and interest as specified hereinabove.

13. Let the aforesaid payments be made by the respective respondents and pension commence to the writ petitioner mandatorily and positively within a period of one month from the date of receipt of a copy of this order.

14. The Commissioner EPS under the RPFC at Kolkata shall be entitled to enquire into the causes for delay in processing the writ petitioner's pension papers based on July 2019 till date and take steps for recovery or any other action, in accordance with law.

15. It is clarified that the writ petitioner being above 60 years of age and illiterate should not be harassed by any of the authorities in course of their enquiry or otherwise.

16. With the aforesaid directions, the writ petition is disposed of.

17. There shall be no order as to costs.

18. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)