

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 1484 OF 2020
(Arising out of SLP (C) No. 33956/2017)

SHIVRATO DEVI

Appellant(s)

VERSUS

THE STATE OF BIHAR & ORS.

Respondent(s)

O R D E R

Leave granted.

2) Despite our previous order dated 10.01.2020, no reply has been filed on behalf of the State of Bihar nor costs have been paid in terms of the said order. However, Mr. Abhinav Mukerji, learned counsel has put in appearance and we have heard him in the matter.

3) This has been a long-drawn battle for the widow of a deceased employee of the State to get the Death-cum-Retirement Gratuity (DCRG) which was due and payable to her husband who retired on 31.03.2008. It is not disputed that the deceased at the time of his retirement was getting a salary of Rs.13,220/- p.m.. According to the State, a sum of Rs. 2,44,299/- was paid on 26.03.2014 as gratuity being the amount of 16½ months pay and D.A. admissible at the relevant time. However, details of the date and the manner in which the amount has been paid have not been given. Learned counsel for the petitioner has placed before us an annexure which has been obtained from the office of the Accountant General, Bihar which shows that the amount paid was only Rs.2,03,742/-, though it

clearly indicates that provisional DCRG which has been paid by the Department may be adjusted. According to the wife, even this amount has not been deposited into her account.

4) The husband had filed a Writ Petition being W.P. No. 9040/2013 in the High Court of Patna. Though the husband had asked for certain other relief(s), at the time of arguments, he had urged that he is entitled to gratuity which has not been paid. The learned single Judge rejected this petition on the ground that since no prayer for grant of gratuity has been made in the writ petition that could not be decided at this stage. The husband filed LPA No. 324/2014 before the Division Bench. During the pendency of the appeal, the husband died and was substituted by his wife - Shivrato Devi, the present petitioner. Thereafter, on 15.12.2014, the High Court disposed of the LPA with the following observations:-

"2. It is submitted, on behalf of the appellant, that the contents of the supplementary affidavit filed, on 13.11.2013, in the writ petition, namely, C.W.J.C. No. 9040 of 2013, have not been taken into account, while making the order, dated 13.11.2013, passed in C.W.J.C. No. 9040 of 2013, which stands impugned in this appeal.

3. Because of the fact that the contents of the supplementary affidavit aforementioned have not been taken into account, while considering the writ petition, we are of the view that the appeal needs to be partly allowed.

4. In view of the above and in the interest of justice, the order, dated 13.11.2013, passed in

C.W.J.C. No. 9040 of 2013, is hereby set aside with the request to the learned single Judge to consider the writ petition afresh by taking into account the supplementary affidavit, which was filed in the writ petition.”

5) It is obvious that the Division Bench of the High Court directed that since a grievance had been raised in the supplementary affidavit that should be decided while deciding the writ petition. Unfortunately, despite such order being passed, the learned single Judge again held that since the question of amount of payment of gratuity is raised for the first time in the supplementary affidavit, the matter could not be heard and would require reconsideration all over again and the writ petition was dismissed.

6) We are constrained to observe that in matters of this type involving gratuity of an employee who has served the State Government for years, the High Court must approach such types of cases with sensitivity. The High Court should not be on a spree of only disposing of cases but it should decide them on merits. We are also constrained to observe that the Single Judge virtually flouted the orders of the Division Bench which had directed him to decide the issue of gratuity also. The matter does not end here. When the widow filed a LPA against this order of the Single Judge, the same was upheld by the Division Bench and hence this petition.

7) Even before this Court, despite imposing costs and giving various dates the State of Bihar has chosen not to reply.

- 8) The employee retired in 31.03.2008 and almost 12 years later the widow has definitely not been paid the entire DCRG due to her. We, therefore, direct the Respondent No.6 - Accountant General of the State of Bihar to determine the gratuity payable to the widow in accordance with the rules within a period of six weeks from today. On such determination it shall also determine whether any amount of gratuity has already been paid. After this amount is determined, the State of Bihar will pay the entire amount of gratuity along with interest @ 12% p.a. from 01.07.2008 giving 3 months period to the State to pay off the gratuity amount till date of deposit or payment of amount of gratuity, obviously the State shall be entitled to adjust the amounts already paid, if any. Compliance affidavit in this regard shall be filed by the Respondents Nos. 1 & 6 in this Court on or before 10.04.2020.
- 9) The Appeal is disposed of in the aforesaid terms.
- 10) List the matter on 17.04.2020 for compliance.

..... J.
(DEEPAK GUPTA)

..... J.
(ANIRUDDHA BOSE)

New Delhi;
February 03, 2020.

ITEM NO.46

COURT NO.13

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 33956/2017

(Arising out of impugned final judgment and order dated 04-07-2017 in LPA No. 291/2016 passed by the High Court Of Judicature At Patna)

SHIVRATO DEVI

Petitioner(s)

VERSUS

THE STATE OF BIHAR & ORS.

Respondent(s)

IA No. 126694/2017 - EXEMPTION FROM FILING O.T.

IA No. 181540/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 03-02-2020 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Ms. Rohini Prasad, Adv.
Mrs. Sarla Chandra, AOR

For Respondent(s) Mr. Abhinav Mukerji, AOR
Mrs. Bihu Sharma, Adv.
Mr. Samarth Khanna, Adv.
Mrs. Pratishtha Vij, Adv.

Ms. Priyanka Das, Adv.
Mrs. Anil Katiyar, AOR
Ms. Vaishali Verma, Adv.
Mr. Sumit Upadhyay, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The Appeal is disposed of in terms of the signed order.

List the matter on 17.04.2020 for compliance.

(R. NATARAJAN)
AR-CUM-PS

(PRADEEP KUMAR)
BRANCH OFFICER

(Signed order is placed on the file)

