

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

ORDER

S.B. CIVIL WRIT PETITION No.274/2002.

: :

Smt.Pista Devi

Vs.

Contributory Provident Fund Trust, R.R.V.P.N.Ltd. & Anr.

: :

Date of Order 28.11.2008

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.R.D.Tripathi for the petitioner.
Mr.V.Lodha for the respondents.

Heard learned counsel for the parties.

This writ petition has been filed by the widow of late Shri Kali Charan Balmiki, who was serving as Helper Grade-II with RSEB, Rajakheda, District Dholpur. He was a member of Employees Family Pension Scheme, 1971. Deduction towards the contribution of the said scheme used to be made from his salary on regular basis and credited to account No.RJ/1922/2133. He died on 2.11.1988 while serving the respondents. The petitioner thus claim that she was entitled to family pension with effect from the said date. It appears from the letter dated 4.5.1988, which is on record, that the case of the petitioner was sent by his employer to the Regional Commissioner, Provident Fund i.e. The

respondent No.2 for payment of family pension in the year 1998. The petitioner during all this time made number of representations to the respondents and thereafter also. Copies of the representations made on 11.12.1998, 21.5.1999, 28.9.1999, 7.2.2001 & 12.4.2001 are placed on record. Finally the petitioner served a notice for demand of justice on 20.6.2001 on respondents. At this stage, he was informed that respondent No.2 namely; Regional Commissioner, Employees Provident Fund Organisation, Jaipur that they were approaching the establishment to deposit the contribution of the petitioner of 1982-83 till death. The petitioner has however produced on record the deduction slips showing that regular deductions were made from the salary of the late husband of the petitioner and were credited to his A/c No.RJ/1922/2133 and not in the A/c No.RJ/1922/1106 as was disclosed by the respondents.

The respondents have contested the writ petition and reply to the writ petition has been filed by the respondent No.1 namely; Contributory Provident Fund Trust Rajasthan Rajya Vidyut Prsaran Nigam Ltd. In the reply, it is admitted that deductions were regularly made from the salary of the late husband of the petitioner and were deposited as his contribution for his employees provident

fund in A/c No.RJ/1922/4613 till 1982-83, but specifically stated owing to some mistake such deposits were made in A/c No.RJ/1922/1106. It was so deposited in one year i.e. 1982-83 and wrongly sent in wrong account number for which the respondent No.2 was duly informed. The respondents have admitted that the petitioner is entitled to get family pension from the respondent No.2 i.e. Regional Commissioner Employees Provident Fund. It is contended that the respondent No.1 informed the Provident Fund Department vide letter dated 17.3.1999 regarding family pension case of the petitioner with reference to her late husband Shri Kali Charan having P.F. Account No.RJ/1922/2133. However, due to inadvertence, the aforesaid communication mentioned wrong account number i.e. A/c No.RJ/1922 and not the correct account number is RJ/1922/2133, therefore, several correspondence took place between the respondent No.2 and respondent No.1 that there were two persons of the same name.

Perusal of the reply submitted by the respondent No.1 clearly indicates that the petitioner had to suffer on account of mistake on the respondents where her late husband was working. In the first place, the respondent No.1 did not take any steps for sending the case of the petitioner

for family pension for nearly one decade and her case appears to have been for the first time sent to respondent No.1 in the year 1998 and when it was sent instead of sending the correct particulars, such as the provident fund account number, which actually was RJ/1922/1106, it was wrongly mentioned as RJ/1922/2133. The respondents have sought to explain that this mistake occurred since there were two persons by the same name, one was Kali Charan S/o Neeka Ram and other was Kali Charan S/o Chokhe Lal Sharma. One Kali Charan was working as Helper, who died and the other Kali Charan Shram was still working on the post of Junior Engineer. Thus it appears that the respondents took the living person as dead, but whatever may have been the reason for delay, it is clearly evident that this delay was attributed to the mistake on the part of the respondents and not to the petitioner. The petitioner was entitled to receive family pension as her late husband was a member of Contributory Provident Fund Scheme and regular deductions used to be made from his salary towards contribution of the said fund.

In the result, this writ petition is allowed. The respondents are directed to grant family pension to the petitioner w.e.f. 2.11.1988, the date on which the late

husband of the petitioner died. Even after the correct particulars were sent by respondent No.1 to respondent No.2, the family pension case of the petitioner could not be finalised and till date no family pension is being paid to the petitioner, the petitioner shall also be entitled to interest @ 6% for the delay, burden of which shall be equally born by respondents No.1 & 2.

Compliance of the judgment be made within three months from the date its copy is produced before the respondents.

(MOHAMMAD RAFIQ)J.

A.Arora/-
Item No.48.