

SUPREME COURT OF INDIA

State of Jharkhand

Vs.

Uma Prasad

C.A.No.600 of 2007

(Mukundakam Sharma and Dr. B.S. Chauhan JJ.)

20.05.2009

ORDER

1. This appeal is directed against the judgment and order dated 13.12.2005, whereby the Division Bench of the Jharkhand High Court, dismissed the Letters Patent Appeal filed by the appellant.

2. The writ petition was filed by the respondent claiming herself to be the widow of late Birendra Prasad with a further prayer for releasing the death-cum-retiral benefits of her husband, who died in harness on 8.10.2004, while working as Assistant in the Secretariat, Dept. of Art. Culture, Sports and Youth Affairs, Jharkhand. The writ petition was disposed of by the learned Single Judge on 27.4.2005, directing for release of the death-cum-retiral benefit and also the salary, if any due, together with interest. The appellant aggrieved by the said order filed a Letters Patent Appeal before the Division Bench of the High Court, which was dismissed by the order dated 30.12.2005, as against which this appeal is filed.

3. Learned counsel appearing for the appellant has submitted before us that there are certain claims of the department against the deceased arising out of appropriation by him of some amount belonging to the Government.

4. However, on consideration of the records, we find that late Birendra Prasad, the deceased was put under suspension on 26.9.1998 on the order of the Commissioner, Chhotanagar Division, Ranchi, and by another order dated 16.6.2000, his suspension was revoked. Thereafter, he died on 08.10.2004 in harness while working as Assistant in the Secretariat, Dept. of Art. Culture, Sports and Youth Affairs, Jharkhand. That being the position and since the learned counsel for the respondent is unable to show us any order passed by the competent authority issuing any charge-sheet against the said deceased, there could be no recovery of any amount from the retiral benefits of the deceased Birendra Prasad. There is no record to show that any departmental proceeding was drawn up by the department against the deceased before his death. We find no error in the judgments passed by the Division Bench and by the learned Single Judge of the Jharkhand High Court. There is no merit in this appeal and the same is dismissed.

5. We are informed that during the pendency of the present appeal the respondent was paid an amount of Rs.1,00,000/- (rupees one lakh) which shall now be adjusted against the dues payable to the respondent. All the service benefits and other dues which are required to be paid to the respondent here shall be paid within a period of two months from the date of receipt of a copy of this order.