

Court No. - 10

Case :- WRIT - A No. - 28527 of 2005

Petitioner :- Smt. Kavita Verma

Respondent :- State Of U.P. Thru Secy. Irrigation Lucknow And Others

Counsel for Petitioner :- S.K. Rai, Ashok Khare, Bipin Lal Srivastav, Praveen Kumar Dubey

Counsel for Respondent :- C.S.C., U.K. Pandey

Hon'ble Kshitij Shailendra, J.

1. Heard Sri Praveen Kumar Dubey, learned counsel for the petitioner and Sri Deepak Chauhan, learned Additional Chief Standing Counsel for the State-respondents.

1. Order of recovery of a sum of Rs.3 lacs and odd has been challenged by the petitioner on the ground that the said amount is not recoverable for the reason that during the lifetime of her husband, no order was passed against him and the petitioner has been taken by surprise after death of her husband.

3. Learned counsel for the petitioner has placed reliance upon a government order as well as order of this Court annexed to the affidavits which state that in case no proceedings are held during lifetime of an employee, since he cannot make his stand after his death, no action should be taken against his heirs.

4. Learned Standing Counsel has referred to para 4 of the counter affidavit dated 15.01.2015 and by referring to various letters annexed to the same, it has been argued that an order of recovery being Order No.819 dated 07.08.1998 was already passed by the department and there being various other letters, orders and proceedings directing the recovery of the amount from the petitioner's husband, it cannot be said that no proceedings were held. He further submits that recovery order was not challenged by the petitioner's husband during his lifetime.

5. It is admitted at the bar that all other financial benefits arising out of services of petitioner's deceased husband have been released in favour of petitioner and that she has also been offered compassionate appointment which has been accepted by her. The amount under recovery has been stayed by this Court vide order dated 12.04.2005.

6. Learned Standing Counsel has further referred to various documents annexed to the counter affidavit dated 04.10.2005 and perusal thereof shows that various orders had been issued against the petitioner's husband directing recovery of the amount.

7. In absence of any challenge made by the petitioner's husband during his lifetime for a period of about ten years, the Court is of the opinion that the argument of learned counsel for the petitioner that no proceedings were held against the petitioner's husband and hence impugned recovery is bad, cannot be accepted.

8. In the peculiar facts and circumstances of the case, there being nothing on record to indicate that recovery was otherwise illegal, the Court does not find any good ground to quash the impugned recovery.

9. The writ petition is devoid of merits and is, accordingly, **dismissed**.

10. Consequences to follow.

Ref: Civil Misc. Impleadment Application No.200978 of 2005

1. By means of this application, impleadment of two officers by designation has been sought.

2. In view of the fact that writ petition itself has been dismissed on merits today itself, the impleadment application has rendered infructuous and is, accordingly, **rejected**.

Order Date :- 4.12.2023

P Kesari