

Court No. - 36

Case :- WRIT - A No. - 16958 of 2023

Petitioner :- Smt.Sopalin

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Awadh Narain Rai

Counsel for Respondent :- C.S.C.

Hon'ble Manjive Shukla,J.

1. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the Respondents No. 1 to 4.

2. Petitioner in her writ petition has stated that her husband, namely, Laxman Singh while working on the post of Peon in Netaji Subhash Chander Bose Adharsh Vidyalaya Junior High School, Raipura, Bheekhampur, District Firozabad retired from service on 31.10.2018. Pension Payment Order was issued in favour of husband of the petitioner but unfortunately he died on 24.12.2018. After the death of husband of the petitioner neither gratuity nor the family pension has been paid to petitioner or to any other legal heir of late Laxman Singh.

3. This court after hearing the matter passed a detailed order on 17.10.2023 which is extracted as under:-

"1. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondents.

2. This court heard this matter on 09.10.2023 and passed a detailed order which is extracted as under :-

"1. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the Respondents No.1 to 4.

2. Learned counsel appearing for the petitioner has submitted that the husband of the petitioner while working on the post of Peon in Netaji Subhash Chander Bose Adharsh Vidyalaya Junior High School, Raipura, Bheekhampur, District Firozabad retired from service on 31.10.2018. Pension Payment Order was issued in favour of husband of the petitioner, but he died on 24.12.2018, therefore, neither the post retiral dues nor the pension could be released in favour of the husband of the petitioner.

3. It has further been submitted that after the death of her husband petitioner submitted application for grant of family pension and also for payment of all retiral dues of her husband and on the said claim Senior Treasury Officer,

Firozabad vide letter dated 31.10.2022 requested the Joint Director Treasury & Pension, Agra Division, Agra that since, in the Pension Payment Order neither the family pension has been fixed nor the name of the wife of Late Laxman Singh has been shown therefore, necessary direction be issued for release of family pension in favour of the petitioner.

4. Learned counsel appearing for the petitioner has argued that the aforesaid letter was sent by the Senior Treasury Officer, Firozabad on 31.10.2022 but till date decision has not been taken and petitioner and the entire family has reached on the verge of starvation.

5. I have considered the submissions advanced by the learned counsel appearing for the petitioner and I find that matter of the petitioner for grant of family pension as well as for release of retiral dues of her husband is pending since 2018 and has not been decided till date.

6. In view of the aforesaid submissions, list this matter on 16.10.2023 as fresh

7. By the next, learned Standing Counsel shall take instructions in the matter as to under what circumstances till date, petitioner's family pension has not been released and retiral dues have not been paid."

3. Thereafter this matter was again heard by this court on 16.10.2023 and on the said date learned Standing Counsel prayed that he has not received instructions from the Respondent No. 3 in respect of the letter written by Senior Treasury Officer, District Firozabad.

4. Twice this court has directed the learned Standing Counsel to take instructions regarding action taken by the Joint Director, Treasury and Pension, Agra Region, Agra on the letters written by the Senior Treasury Officer, District Firozabad in respect of payment of family pension to the petitioner but instructions have not been provided.

5. In the aforesaid circumstances, this court is left with no option except to summon Respondent No. 3.

6. Let Respondent No. 3 appear before this court along with the record to assist the court on 27.10.2023.

7. List this matter on 27.10.2023 as fresh."

4. In compliance of this court's order dated 17.10.2023 Mr. Liyakat Ali, Additional Director, Treasury and Pension, Agra Division, Agra is present before this court and he has filed an affidavit.

5. Learned Standing Counsel has produced before this court instructions provided by the Additional Director, Treasury and Pension, Agra Division, Agra vide his letter dated 21.10.2023 and perusal of the said instructions makes it crystal clear that late Laxman Singh while submitting papers for pensionary benefits has shown that his wife is dead and therefore, in the nomination table

name of petitioner is missing. Additional Director, Treasury and Pension, Agra Division, Agra has further stated before this court that once employee himself at the time of submitting papers for payment of pensionary benefits has shown his wife to be dead then unless a succession certificate is issued in favour of the petitioner by the competent court of law, it would not be proper to release either family pension or other retiral dues in favour of the petitioner.

6. When confronted with the aforesaid, Mr. Awadh Narain Rai, learned counsel appearing for the petitioner has invited attention of this court towards the succession certificate issued by the Additional District Magistrate, Firozabad dated 24.07.2020, wherein petitioner has been shown to be legally wedded wife of late Laxman Singh.

7. Mr. Shishir Tripathi, learned Standing Counsel has submitted that the succession certificate dated 24.07.2020 has been issued by the administrative authority and is valid only for payment up to Rs. 5,000/- therefore, unless petitioner obtains succession certificate by the competent court of law, retiral dues of late Laxman Singh including family pension cannot be paid to the petitioner.

8. Mr. Awadh Narain Rai, learned counsel appearing for the petitioner at this stage has submitted that petitioner may be given time to obtain succession certificate from the competent court of law and direction may be issued to the respondents to pay the post retiral dues and family pension on the basis of the succession certificate.

9. In view of the aforesaid submissions advanced by the learned counsels appearing for the parties, this writ petition is finally disposed of with liberty to petitioner to approach the competent court of law and to obtain succession certificate and if such succession certificate is issued in favour of the petitioner, respondents will consider and pass necessary orders for payment of post retiral dues including the family pension to the persons entitled for the same, within a period of two months from the date of issuance of succession certificate by the competent court of law.

Order Date :- 27.10.2023

Gaurav