

Court No. - 20

Case :- WRIT - A No. - 9473 of 2023

Petitioner :- Smt. Laxmi Devi And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Irrigation And Water Resource Deptt. Lko And 3 Others

Counsel for Petitioner :- Savita Jain

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

1. Heard learned counsel for petitioners and learned State Counsel appearing on behalf of opposite parties.
2. Petition has been filed seeking a direction to the opposite parties to release all post retiral benefits due to late Rama Nand who is predecessor-in-interest of petitioners. Interest on the arrears has also been sought.
3. It has been submitted that petitioner No.1 is the wife of late Rama Nand while petitioner No.2 is his daughter. It has also been submitted that the said person Rama Nand was appointed on the post of Runner with opposite party in 1972 whereafter he went missing during service on 10th April, 2003. First information report was also lodged with regard to said fact on 8th July, 2003 and subsequently upon passing of seven years from the date of disappearance, petitioner No.1 filed a suit for declaration of his civil death which was registered as regular suit No. 180 of 2010 which was decreed by means of judgment and order dated 13th July, 2012, which has attained finality.
4. It has been further submitted that despite all the relevant documents having been provided by petitioner to the opposite parties, post retiral benefits have not yet been made available to her. Attention has been drawn to the notice dated 24th July, 2023 requiring certain documents from petitioner. Learned counsel has submitted that all such documents have already been provided by petitioner to the opposite parties but the opposite parties are insisting upon production of a succession certificate ignoring the decree passed by Civil Judge (Junior Division), Lucknow in the declaratory suit.
5. Learned State Counsel on the basis of instructions submits that name of neither of petitioners is indicated in the service book of late Rama Nand and therefore notice has been issued to them to submit the relevant documents in order to enable the opposite parties to process their claim.

6. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, it appears that a suit for declaration of civil death of late Rama Nand was filed and was registered as regular suit No. 180 of 2010 which was instituted by petitioner No.1, Smt. Laxmi Devi in which petitioner No.2 has also been indicated as a defendant. The said suit has thereafter been decreed by means of judgment and order dated 13th July, 2012 while declaring petitioners as his legal representatives.

7. In view of aforesaid, it is evident that a declaratory decree has already been issued by a court of competent jurisdiction and therefore there is no occasion for the opposite parties to insist on production of succession certificate by the competent authority. However actually petitioner has to comply with other directions issued in the notice dated 24th July, 2023 and to submit necessary documentation in order to enable opposite parties to process her claim.

8. Therefore the petitioners are directed to supply all the necessary documents to the opposite parties within a period of two weeks from today. On supply of necessary documents as indicated in the notice dated 24th July, 2023, the opposite parties are directed to consider the same for the purposes of payment of post retiral benefits of late Rama Nand to petitioners in case declaratory decree has attained finality. Opposite parties are also directed not to insist on production of any succession certificate in view of declaratory decree already in favour of petitioner. Necessary action shall be taken by the opposite parties within a period of four months from the date a certified copy of this order is produced before the concerned authority.

9. With the aforesaid observations, the writ petition stands **disposed of.**

Order Date :- 13.12.2023

prabhat