

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No.7287/2001**

% **20th March, 2015**

DHANNA SINGH Petitioner

Through: None.

versus

CENTRAL BUREAU OF INVESTIGATION Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Petitioner, who is the father of the deceased Smt. Jasbir Kaur, the employee of the respondent/Central Bureau of Investigation, seeks the relief of being granted GPF and other service benefits which were payable on account of services rendered by Smt. Jasbir Kaur with the respondent.

2. The case of the petitioner in the writ petition is that his daughter Smt. Jasbir Kaur got married to Sh. Balbir Singh on 10.10.1997 but she was manhandled for bringing insufficient dowry and thrown out of the matrimonial home on 3.11.1997 i.e even before the second month of marriage. Thereafter, Smt. Jasbir Kaur always lived with the petitioner-father. Smt. Jasbir Kaur was never looked after by her husband Sh. Balbir

Singh. Smt. Jasbir Kaur was a patient of Chronic Renal Failure and she died on 20.8.2000 in her parental home i.e with the petitioner. The husband of Smt. Jasbir Kaur never came for a single day either during the ailment of Smt. Jasbir Kaur or for performing the last rites of Smt. Jasbir Kaur. Petitioner vide his letter dated 7.11.2000 sought the release of GPF amount lying to the credit of Smt. Jasbir Kaur inasmuch as petitioner was nominated by Smt. Jasbir Kaur as the nominee in her GPF account. The respondent however did not pay the amount in spite of a legal notice dated 6.9.2001 sent on behalf of the petitioner, and hence the present petition was filed.

3. The respondent, as per its counter affidavit, has stated that the petitioner was no doubt a nominee in the GPF account, however it is pleaded that it is the husband of Smt. Jasbir Kaur who will be entitled to GPF and not the petitioner. Respondent in the counter affidavit also pleads that besides GPF, other amounts would be payable under the heads of death gratuity, family pension and benefits under the group insurance scheme, but, on these aspects there is no nomination in favour of anyone. Respondent therefore has disputed the claim of the petitioner. The respondent in support of its stand has relied upon the provisions of the CCS Pension Rules as also the Family Pension Rules of 1964, and copies of which have been filed alongwith counter affidavit.

4. So far as grant of GPF is concerned, once the petitioner is the nominee, petitioner can always be paid the amount of GPF, of course, subject to petitioner holding the same as trustee if the husband of Smt. Jasbir Kaur, namely Sh. Balbir Singh can legally claim and is held entitled to the said amount as per any interim or final order in judicial proceedings. Respondent is therefore directed to pay the amount lying in the GPF account of Smt. Jasbir Kaur to the petitioner and petitioner will receive the said amount only as the nominee of his daughter and subject to petitioner refunding the same to any person who may be held entitled to that amount on an order being passed in any judicial proceedings.

5. So far as grant of gratuity is concerned, it is noted that under Rule 50(6) of the CCS Pension Rules, a father is shown to be one of the family members to whom gratuity is payable and hence in view of Rule 50(6)(vi) read with Rule 51(1)(b)(ii) petitioner can be paid the gratuity as he falls within the expression 'family members'. Once the husband of Smt. Jasbir Kaur, Sh. Balbir Singh has never made a claim upon the respondent for grant of gratuity and petitioner is a family member in terms of aforesaid Pension Rules, there is no reason why respondent should not make payment of the gratuity amount to the petitioner. Of course, petitioner to the extent of 50% of the gratuity amount will receive the same in trust in case in any

judicial proceedings it is held or ordered that Sh. Balbir Singh is entitled to receive 50% of the gratuity amount, total of which gratuity the petitioner is receiving pursuant to the present judgment.

6. As per the Hindu Succession Act, a father is a legal heir as per Section 15(1)(c). No doubt, a husband is a legal heir in terms of Section 15(1)(a) read with Section 16 Rule 1, but, once the husband does not come forward to claim the service benefits, and petitioner is also one of the legal heirs in terms of the aforesaid provision of the Hindu Succession Act, petitioner can be paid the service benefits which are lying to the account of the deceased Smt. Jasbir Kaur.

7. I may note that petitioner however will not be entitled to any family pension because family is defined as per sub Rule 14 of Rule 54 and a father is not included in the term family for being granted family pension.

8. The present judgment is passed in the very peculiar facts of the present case where Smt. Jasbir Kaur was thrown out of her husband's home and it is only the petitioner-father who took care of her and whom she was living with when she expired. This case therefore will not be treated as a precedent for other cases.

9. In view of the above, petition is allowed and the petitioner be paid GPF, gratuity and any other service benefits payable except family

pension. Service benefits due to the petitioner be now paid by the respondent within two months of receipt of copy of the present judgment. In case the amounts due are not paid in two months as aforesaid, petitioner thereafter will be entitled to interest @ 9% p.a simple.

10. Petition is allowed and disposed of accordingly, leaving the parties to bear their own costs.

11. Dasti to petitioner under the signatures of the Court Master.

VALMIKI J. MEHTA, J

MARCH 20, 2015

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