

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.25442 of 2013

ORDER:

Heard.

2. The present Writ Petition came to be filed seeking issuance of writ of mandamus or any other appropriate writ, calling for records relating to the proceedings of the first respondent bearing Letter No.R.G.2/ O.C.P.3.E.P.(O)., dated 28.02.2013 and letter No.R.G.2/ O.C.P.3E.P.(O)/ Dy.PW/ 2752, dated 02.06.2013 in insisting the petitioner to get legal heir/ succession certificate from the Court and set aside the same by declaring it as illegal, arbitrary, unconstitutional and violative of Articles 14 and 16 of the Constitution of India.

3. The averments in the affidavit filed in support of the writ petition would show that the petitioner is wife of one Mr.Mohd. Ruknuddin, who was an employee of respondent-organisation. It is stated that the first wife of Mr.Mohd.Ruknuddin has given divorce to him. Thereafter, Mr.Mohd.Ruknuddin married the petitioner on 08.02.1998. Both of them lived happily and were blessed with one daughter and a son. It is stated that the husband of the petitioner died on 01.11.2012, while in service, leaving behind the petitioner and her children as legal heirs. Subsequently, the petitioner submitted an application to the first respondent seeking pensionary benefits of her husband and to appoint her son on compassionate grounds. The averments in the affidavit further shows that pursuant to the application made by the petitioner, the first respondent, vide letter dated 16.12.2012 informed the petitioner to submit an application for compassionate appointment or for payment of Rs.6,000/- per month or lumpsum of Rs.5 lakhs as per the rules, within one year from the date of death of her husband i.e., on or before 01.11.2013.

Immediately thereafter, the petitioner submitted her representation requesting the first respondent to sanction pension and pensionary benefits to her. The first respondent forwarded the same to the second respondent, which was returned for correction of name (petitioner) at all places over the seal, the signature of the colliery manager and to resubmit the same. Thereafter, the first respondent vide letter date 28.02.2013 informed that C.M.P.F. has returned the pension claim papers on the ground that the name of the petitioner is shown on the nomination papers as Shahin Sultana, instead of Smt.Shameem Sulthana and as such the petitioner was requested to get legal heir/ succession certificate form the Court. Challenging the same, the present writ petition came to be filed.

4. Though various grounds are raised, learned counsel for the petitioner submits that subsequent to filing of the writ petition, the respondent-authorities have released family pension in the year 2014. Such being the position, it is urged that the respondents cannot withhold gratuity and other benefits, which are due to the petitioner. The said fact is disputed by the learned counsel for the respondents stating that since the name of the person i.e., Shaheen Sulthana is that of the first wife of the employee, it is not proper for the authorities to release the entire benefits in favour of the petitioner, who is admittedly, the second wife of the petitioner. It is further stated that during his service, the employee never applied for a change in nomination in favour of the petitioner as such the amount if any would be given to nominee only. To this, learned counsel for the petitioner would submit that by mistake the name has not been changed in the record, but fact remains that the petitioner is the legal heir of the deceased and the whereabouts of the nominee are not known.

5. At this stage, both the counsels agree for making a fresh representation to the first respondent, bringing out necessary details, in which event, the first respondent may be directed to consider the same in accordance with law.

6. Having regard to the above, the writ petition is disposed of directing the petitioner to make fresh application before the first respondent seeking benefits which she is entitled to, within a period of two weeks from the date of receipt of a copy of the order, in which event, the respondent-authorities shall consider the same, in accordance with law, within a period of four weeks thereafter. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.



JUSTICE C. PRAVEEN KUMAR

19.04.2017

Note:

Issue CC by 24.04.2017.

B/ o.

vhb