

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MRS. JUSTICE ANIS**

WRIT PETITION No.31303 of 2015

ORDER: [Per the Hon'ble Sri Justice *Sanjay Kumar*]

The petitioner claimed to be the second wife of late Mohd. Masood, Head Mechanic in the service of the Engineering Division, Geological Survey of India, Hyderabad. He died on 16.6.2013. She further claimed that she had two children through late Mohd. Masood. Kausar Sultana is stated to be the first wife of late Mohd. Masood. She was also blessed with a son.

Aggrieved by the order dated 6.2.2015 passed by the E.E. & D.D.O., Engineering Division, Geological Survey of India, Hyderabad, denying her request for grant of pension in the capacity of a second wife, the petitioner filed O.A.No.230 of 2015 before the Central Administrative Tribunal, Hyderabad Bench. By order dated 18.9.2015, the Tribunal held that there was no proof or evidence to show that the petitioner was the legally wedded wife of late Mohd. Masood and dismissed the O.A.

At the time notice was ordered in this Writ Petition on 23.9.2015, this Court permitted disbursal of 50% of the pension to the first wife, the 5th respondent herein, without regard to the pendency of this case. The balance 50% was however directed not to be disbursed until further orders.

Strangely, W.V.M.P. No.4558 of 2015 was filed by the authorities of the Geological Survey of India along with Union of India to vacate the aforesaid order. We are at a loss to

understand as to how the employer of late Mohd. Masood is aggrieved by the order directing disbursal of 50% of the pension to the first wife. Significantly, Kausar Sultana, the first wife of late Mohd. Masood, entered appearance through Sri Ahmed Khan, learned counsel, but did not choose to file any counter opposing the claim of the petitioner.

Sri T.P. Acharya, learned counsel, produced photocopies of Urdu documents, along with their English translation, which bear out the fact that late Mohd. Masood married the petitioner on 12.7.1992. Further, the secondary school certificates of Mohammad Arsheen and Mohammad Imran, the children of the petitioner, bear out that their father was Mohd. Masood. In the light of these documents, which are not even rebutted by Kausar Sultana, the first wife, we are of the opinion that the case squarely falls within the ambit of Rule 54 (7)(a)(i) of the Central Civil Services (Pension) Rules, 1972. This Rule states that where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares. It further states under clause-(ii) that on the death of a widow, her share of the family pension shall become payable to her eligible child. The claim of the petitioner would therefore have to be considered in terms of the aforestated rule. The rejection of her claim vide order dated 6.2.2015 is therefore set aside.

The Writ Petition is allowed. The authorities shall reconsider the claim of the petitioner under the aforestated rule in the light of the evidence placed by her before this Court in proof of her being the second wife of late Mohd. Masood, the deceased employee of

the Geological Survey of India. Action in this regard shall be taken expeditiously and, in any event, not later than four weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed.
No order as to costs.

SANJAY KUMAR, J

ANIS, J.

Date:15.02.2017

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