THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.3992 OF 2018

O R D E R

As per the averments made in the affidavit filed in support of the writ petition, the case of the petitioners is that one late K.L.Ramana (S.R.No.645316), while in service with the respondent – Corporation as sub-staff died on 17.03.2010. Petitioner No.1 is the father of the deceased and petitioners 2 and 3 are the daughter and son of the deceased. Aggrieved by the inaction of the respondent – Life Insurance Corporation, in paying the terminal benefits of the deceased and family pension, the present writ petition is filed.

It is stated in the writ affidavit that after the death of the deceased on 17.03.2010, his wife also expired, and the 1st petitioner is taking care of petitioners 2 and 3 by providing necessary amenities. Petitioners 2 and 3 being minors and unmarried, are entitled for family pension from 17.03.2010, from the respondent – Corporation. Claiming terminal benefits of the deceased, 1st petitioner submitted family member certificate issued by the revenue authorities. Instead of accepting the said certificate issued by the revenue authorities and paying terminal benefits of his deceased son, respondents are insisting for legal heir certificate from a competent civil court. The case of the petitioners is that as there are no rival claims, insisting for legal heir certificate, is not justified. The grievance of the petitioner No.1 is that though his son died in the year 2010, till date, his terminal benefits have not been paid. Hence the writ petition.

On behalf of respondents, Assistant Secretary (Legal) of LIC of India, Zonal Office, Hyderabad, filed counter affidavit and in paragraph No.3, particulars of attachment orders of civil court against the salary of the deceased, were mentioned. It is stated that in addition to the amount mentioned in the attachment orders of civil court, deceased is due an amount of Rs.20,750/- to the respondent – Corporation towards repayment of flood advance taken by him. Total amount payable towards settlement of terminal benefits of the employee is Rs.8,12,734/- (Gratuity – Rs.3,19,264-00, Free Insurance – Rs.6,000-00, GSLI – Rs.2,00,000-00, Group term insurance – Rs.1,75,000-00, Net PF Rs.1,12,470-00) . Since the amount of Rs.9,08,070/- under various attachments, exceeds the amount payable towards settlement of terminal benefits, respondents could not settle the terminal benefits of the deceased employee. As per Instruction No.21 of LIC of India Recruitment (of Class III and Class IV Staff) Instructions, 1993, a request for appointment on compassionate grounds is to be received from the spouse or son or unmarried daughter of the employee, who dies while in service, within a period of one year from the date of death of the employee and that they have not received any such request within one year from the date of death of the employee. The maternal grant parents of petitioners 2 and 3, got issued legal notice dated 31.08.2010 stating that the petitioner No.1, who is the paternal grandfather of the children, is not taking care of the children and that even during the life time of late K.L.Ramana, petitioner No.1 has not taken care of his health and also his daughter-in-law, they even disowned the children after the death of their son and daughter-in-law and they never enquired about the welfare of their grandchildren. Therefore, they sought not to entertain any claim made by the parents of late K.L.Ramana. It is further stated that the petitioner No.1 submitted proper person certificate dated 20.07.2011 from Tahsildar, Anakapalli, containing names of four family members, in which father (class II legal heirs) of the deceased employee, is mentioned as proper person to receive the terminal benefits, even though the Class – I legal heirs are alive. The respondent – Corporation has promptly given reply to the letter of the petitioner No.1 vide reference No.DO/OS/AO/(PA) dated 26.12.2011 informing to submit legal heir certificate from the competent court for settlement of terminal benefits of the deceased employee and there is no response from petitioner No.1. The family member certificate issued by Tahsildar, Palcole dated 23.09.2017 containing names of two family members and also the letter issued by Tahsildar, Palacole vide ref. No.L Dis.866/2017/B dated 02.11.2017, were filed before this court and not submitted before the respondent – Corporation. With these averments, the writ petition was sought to be dismissed.

Learned counsel Sri D.Linga Rao, appearing for the petitioners reiterating the averments made in the writ affidavit, further submitted that there is no dispute that petitioners 2 and 3 are the children of the deceased employee who died while in service and they are Class-I legal heirs. The wife of the deceased employee also passed away. Petitioner No.1, who is the paternal grandfather of petitioners 2 and 3, is taking care of them by providing necessary amenities. He stated that the 1st respondent produced family member certificate issued by the revenue authorities, but the respondents are insisting for a legal heir certificate from a civil court. He stated that as there is no dispute with regard to legal heirs of the deceased, insisting for a legal heir certificate from a civil court, is not justified. He contended that under Section 60 of C.P.C. certain amounts like gratuity and other amounts, are exempted from attachment. Therefore, though there are attachment orders of civil courts, amounts which are exempted from attachment under Section 60 of CPC, can be released to the petitioners. With these submissions, he sought for a direction to the respondents to release the amounts to the petitioners.

On the other hand, learned Standing Counsel Sri Battula Raj Kiran, appearing for the respondent – Corporation reiterating the averments made in the counter affidavit, submitted that the total amount under the attachment orders of civil court served on the Corporation, is more than the amount that is due to the deceased. Apart from that, 1st petitioner produced 'proper person certificate' issued by Tahsildar Ankapalli Mandal, where names of four persons were shown i.e., the parents of the deceased employee and his daughter and son. He stated that in the family member certificate produced by the 1st petitioner issued by Tahsildar, Palacole, the names of petitioners 2 and 3 were alone shown. Therefore, there is inconsistency in both the certificates. He stated that disputing that the 1st petitioner is taking care of the children of the deceased employee, the maternal grand parents of the children, sent legal notice to the Corporation, not to disburse the amount to the 1st petitioner. He submits that the respondent – Corporation issued letter dated 26.12.2011 to the petitioners to submit legal heir certificate, but there is no response from the petitioners. In view of these facts and circumstances, the learned Standing Counsel sought to dismiss the writ petition.

From the above averments, there is no dispute that deceased K.L.Ramana, who was working as Sub Staff in the respondent – Corporation died on 17-03-2010 while in service and the petitioners 2 and 3, are his children and they are minors. Though the 1st petitioner produced proper person certificate dated 20.07.2011 issued by Tahsildar Anakapalli Mandal and also the family member certificate dated 23.09.2017 issued by Tahsildar, Palacole, the fact remains that petitioners 2 and 3 herein are the children of the deceased and they are Class-I heirs. They are entitled for terminal benefits of the deceased and since they minors and unmarried, as per Rule 39 of Life Insurance Corporation (Employees) Pension Rules, 1995, they are entitled for family pension, till they attain the age of 25 years.

Under Section 60 of CPC, certain amounts are exempted from attachment. Therefore, in my considered view, the respondent – Corporation ought to have considered the payment of terminal benefits to petitioners 2 and 3, which are exempted under Section 60 of CPC. In the counter affidavit filed by the respondents it is stated that the petitioners produced the family member certificate before this court and they have not submitted the same to the Corporation regarding settlement of terminal benefits.

In view of above facts and circumstances, petitioners are given liberty to submit original family member certificate dated 23.09.2017 issued by the Tahsildar Palacole to the respondent – Corporation along with a representation.

On receipt of such representation, the competent authority of the respondent-Corporation shall consider the representation of petitioners and pass orders giving details for payment of terminal benefits of deceased employee to petitioners 2 and 3, which are not attached by civil court and which are exempted under Section 60 of C.P.C. The said authority, shall also take action for payment of family pension to petitioners 2 and 3 in accordance with law.

The above exercise shall be completed within three weeks from the date of submission of application by petitioners 2 and 3.

The writ petition is disposed of accordingly.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

A.RAJASHEKER REDDY,J

DATE:21.03.2018

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