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

+ C.R.P. 85/2017 & CM Nos. 13031-32/2017

DEPUTY DIRECTOR (HORTICULTURE) Petitioner

Through: Mr. Ripu Daman Bhardwaj, Adv.

versus

PREMWATI & ORS Respondents

Through: Mr. S.K. Singh, Adv. for R-1.

Mr. Rajender, Adv. for R-2.

Ms. Jaya Tomar, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **19.04.2018**

Girwar Singh described by the first respondent as her husband was an employee of petitioner department of the Government. He died on 02.09.2004. The first respondent filed a petition (petition no. 806/2004) on 03.12.2004 seeking succession certificate in respect of debts and securities left behind by Girwar Singh. The Administrative Civil Judge by judgment dated 11.04.2014 granted the succession certificate in terms of debts and securities of deceased Girwar Singh as set out in Ex.PW-2/2 which was formally issued as succession certificate on 07.06.2014. It is noted that amongst the assets left behind by Girwar Singh there is a reference to credit balance in bank account no 01190/050033 held with State Bank of India, Ghonda Branch, Delhi -110053 and family pension, computation whereof was issued by the pay and accounts office (NDZ) of CPWD in the Ministry

of Urban Development and Poverty Alleviation totalling Rs. 5,23,796/- for the period 03.09.2004 to April, 2014 as authenticated by senior accounts officer.

The petitioner's counsel points out that Girwar Singh had retired from the government service on 31.10.1984 and thereafter was in receipt of pension he having declared at that stage that his wife had already died before his retirement, his legal heirs including only two sons namely Pirbhoo (born on 03.03.69) and Jai Prakash (born on 16.07. 1974). The petitioner department thus finds it difficult to make payment to the first respondent in terms of the succession certificate (Ex.PW-2/2).

Having heard both sides and having gone through the record with their assistance, this Court is of the view that the right to family pension w.e.f. 03.09.2004, after the death of Girwar Singh, could not have been subject matter of the proceedings for grant of succession certificate inasmuch as the family pension would not be an estate left behind by the deceased. For such purposes, the first respondent was required to pursue the appropriate remedies in the appropriate forum in accordance with law.

The petition is thus allowed with observations that the grant of succession certificate to the first respondent will not by itself bind the petitioner to make payment of family pension to her. However, the question as to whether she is entitled to family pension is kept open, she being at liberty to pursue the appropriate remedy in accordance with law.

APRIL 19, 2018/nk
C.R.P. 85/2017

R.K.GAUBA, J

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