

S/L No.18

(Through Video Conference)

01.07.2021

WPCT 43 of 2021

Ct-16

(AD & Dd)

Manoj Sharma

vs.

Union of India & Ors.

Mr. Uday Narayan Betal

... for the petitioner

Mr. Asok Bhaumik

... for the respondent/railways.

Mr. Swapan Banerjee

Mr. Diptendu Banerjee

... for the respondent no.5.

One of the sons of the deceased is applicant before us. The order under challenge is dated 10th February, 2021 in O.A. No.350/01134/2018 in connection with an application filed before the Tribunal under Section 19 of the Administrative Tribunal Act, 1985. In the said proceeding amongst others, a prayer was made for a direction upon the respondents to give the 1/5th share of the retiral benefits of the deceased employee in favour of the applicant. The learned Tribunal while rejecting the claim for compassionate appointment, as the mother of the applicant raised objection, did not consider prayer 'c' of the petition which reads as follows:

"c) to pass an order directing the respondents to give the 1/5th share of the retiral benefits of late Sheoji Sharma in favour of the applicant."

We have been informed that the mother of the present petitioner is the nominee. A nominee holds the amount as a trustee for the benefits of the legal heirs.

The amount received by the nominee cannot be appropriated to the prejudice of the other legal heirs who are entitled to such benefits under the Hindu Succession Act.

On such consideration, the authorities shall release 1/5th share of the retiral benefits of the employee in favour of the applicant. If the amount has already been released, the respondent no.5 shall remit the amount to the bank account of the petitioner representing the 1/5th of the retiral benefits received upon the death of late Sheoji Sharma to the petitioner within eight weeks from the date of communication of this order.

The order of the learned Tribunal is modified to the above extent.

Accordingly, the writ petition is disposed of .

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)