

06-12-2021
ct no. 13
Sl.5
sp

WPA 13499 of 2021
Subhas Chandra Khatua & Ors.
Versus
Union of India & Ors.

(Via Video Conference)

Mr. Ramdulal Manna,
Mr. Sayan Mukherjee
...for the petitioners

Mr. Rajdeep Biswas,
Ms. Rama Ghosh Dastidar
...for the Union of India

Mr. Sirsanya Banerjee,
Mr. Arka Kumar Nag
...for the State

Ms. Swapnalekha Auddy,
Mr. Surajit Auddy
...for the private respondent nos.6 and 7

The short question before this Court is as to whether the Union, could insist on a succession certificate from the petitioners for the purpose of passing of accrued pensionary dues that was payable to their late mother.

Counsel for the petitioners relies upon the following judgments being Civil Writ Petition No. 7121/2010 (Smt. Savitri Devi & Anr. vs. District & Sessions Judge, Hanumangarh) dated July 3, 2013 and a decision of the Kerala High Court in WA No. 556 of 2014 (V.A. Salma Beevi vs.

Administrative Officer & Ors.) dated July 9, 2014 reported in **2014 3 KHC 820**.

By reference to the aforesaid judgements, the petitioners would argue that the pension that was receivable by the petitioners on account of the death of their mother is not debt, within the meaning of Section 372 of the Indian Successions Act, 1925.

This Court is not inclined to accept the arguments of the petitioners. The Union insisting on a Succession Certificate for the purpose of passing on pension is indeed lawful and justified in law but may not be applied in the instant case. The reason therefore is that admittedly the writ petitioners are the only lawful claimants to the debt payable by the Union to their late mother Snehalata Khatua. There are in fact no other claimants. The petitioners may produce a Heirship Certificate from the local authorities.

The respondent no.3, is therefore directed to release life time arrears of the petitioners' mother for the period from 29.12.2014 to 29.10.2020 as indicated in the letter dated September 3, 2021. Amounts may be released to the petitioners on the basis of the Heirship Certificate that may be issued by the local administration in the instant case being the local Pradhan of the concerned

Gram Panchayat and/or the concerned District Magistrate.

The writ petitioners shall also execute a letter of indemnity to the Union and/or any other person who may establish claim to the estate of the late Snehalata Khatua before a Court of competent jurisdiction.

It is directed that the said arrears shall be paid to the petitioners within a period of two months from the date of receipt of a copy of this order.

With the aforesaid observations, the writ petition is disposed of

There shall be no order as to costs.

Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)