

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

116

CWP No.3772 of 2021

Date of Decision: 18.02.2021

Sushil Kumar

....Petitioner

VERSUS

State of Haryana and others

....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Sube S. Kaushik, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

Heard through video conferencing.

Prayer in the present petition under Article 226 of the Constitution of India is for issuance of a writ in the nature of *mandamus* directing the release of *ex-gratia* benefits to the petitioner being the nominee of the deceased (his wife) as well as for quashing the letter dated 23.12.2020 (Annexure P-5).

Learned counsel for the petitioner would contend that in the service book of the deceased, Suman Rani (wife of the petitioner), the petitioner has specifically been named as her nominee. He has further referred to the Haryana Civil Services (Pension) Rules, 2016 to contend that “succession certificate or Will does not constitute a legal right to claim the death-cum-retirement gratuity where valid nomination subsists in the office record”.

Notice of motion.

On the asking of the Court, Mr. Rajesh Gaur, Addl. A.G., Haryana has joined the session through video conferencing and accepts notice on behalf of respondent nos.1 to 5. He has pointed out that in the present case there is a minor child, namely, Advik aged 1 year, who is staying with his maternal grandfather and has filed a suit for declaration to

the effect that plaintiff no.3, the minor (Advik), is son of the deceased, Suman Rani, who was posted as PGT Chemistry Teacher in Government Girls High Court, Village Gatauli, District Jind and that he would be entitled to receive the entire benefits including the salary for the months of July and August, 2020, leave encashment, death gratuity, GIS, commutation of pension, NPS and any other dues of the deceased. In the civil suit, various allegations have been made against the petitioner and this suit is being contested by the petitioner. Learned State counsel would further contend that because of the pendency of the said civil suit *ex-gratia* payment has not been released to the petitioner herein.

I have heard learned counsel for the parties.

Admittedly, the civil suit filed on behalf of the minor, Advik aged 1, is pending. The prayer in the said suit is for declaration to the effect that the minor child is entitled to receive the entire benefits on the death of his mother, Suman Rani. Keeping in view the fact that rights of a minor child are involved in the present case and a civil suit *qua* the same is already pending, I do not deem this to be a fit case to interfere under Article 226 of the Constitution of India.

Dismissed. However, this order shall have no bearing in the trial and decision of the civil suit mentioned above.

(ALKA SARIN)
JUDGE

18th February, 2021
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO