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

\+ W.P.(C) 2564/2019 and CM No. 11933/2019 (for stay).

MASTER SANJEEV MEHRA THROUGH THEIR LAWFUL GUARDIAN SH. PHOOL CHAND MEHRA AND ANR.
..... Petitioners

Through: Mr. Sahib Gurdeep Singh, Adv.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr. Akshay Makhija, CGSC with Ms. Roshni Namboodiry and Mr. Ankit Tyagi, Advocates for UOI.
Counsel for the respondent no.4

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

% **24.02.2021**

1. The petition impugns the order dated 14th February, 2019 of the Central Administrative Tribunal, Principal Bench New Delhi (CAT), of dismissal of O.A./100/2482/2017 preferred by the two petitioners, namely Master Sanjeev Mehra and Master Kritagya Mehra, stated to be 15 and 8 years of age respectively and acting through their paternal grandfather Phool Chand Mehra.

2. The petition came up first before this Court on 14th March, 2019, when while issuing notice thereof, the respondents no.1 to 3 namely (i) Union of India; (ii) The Commandant, Central Vehicle Depot; and, (iii) The Principal Controller of Defence Accounts, were restrained from releasing any further amounts which may be due in terms of the Rules, to the respondent no.4 Kamlesh.

3. Counter affidavits and rejoinders have been filed and we have heard the counsels.

4. The undisputed facts are, that the two petitioners are the minor sons of late Lovlin Mehra and his first wife late Jaishree, on whose demise the said late Lovlin Mehra married the respondent no.4. The said Lovlin Mehra was employed with the respondents no.1 to 3 as a Civilian Motor Driver (CMD) and died on 24th November, 2016. On enquiry, it is informed that the mother of Lovlin Mehra had pre-deceased him and he was a Hindu by religion and died without leaving any Will. Thus, according to the law succession applicable to the said Lovlin Mehra, the petitioners no.1&2 and the respondent no.4 are his only natural heirs, entitled to inherit 1/3rd share each in his estate.

5. The OA before the CAT was filed by the petitioners, on learning of the respondent no.4, as a nominee in the records of the respondents no.1 to 3, having received death fund of Rs.1,00,000/- from the respondents no.1 to 3 and to restrain the respondents no.1 to 3 from releasing any further amounts due, owing to the demise of Lovlin Mehra, to the respondent no.4 and claiming share therein.

6. On enquiry, it is informed that after the release of the said Rs.1,00,000/-, no other amounts/pension have been disbursed to the respondent no.4 or to anyone till now.

7. It being the settled position in law, as also recognized by CAT in the impugned order, that a nominee receives the terminal benefits of deceased employee only in a representative capacity and for the benefit of all the heirs, we have straightway asked the counsel for the respondents no.4, the objection if any of the respondent no.4, to all the amounts due with respect

to the demise of Lovlin Mehra being distributed equally between the two petitioners and the respondent no.4. Reference in this regard may be made to ***Shipra Sengupta Vs. Mridul Sengupta*** (2009)10 SCC 680 and ***Sarabati Devi Vs. Usha Devi*** (1984) 1 SCC 424.

8. The counsel for the respondent no.4, besides relying on the nomination in favour of the respondent no.4 contends that while the paternal grandfather of the petitioners, with whom the petitioners are residing, is monetarily well off, the respondent no.4 is not.

9. However the aforesaid cannot be a consideration in law, for denying the benefits which have accrued to the petitioners. Moreover, the petitioners being minors, their rights in law cannot be dealt with.

10. The counsel for the respondents no.1 to 3 has drawn our attention to the CCS (Pension) Rules, 1972 applicable and has contended that as per the said Rules, pension is payable equally to the respondent no.4 and to the elder of the two petitioners, till he attains the age of 25 years and thereafter to the younger of the two petitioners, again till he also attains the age of 25 years.

11. Considering the economic strata to which the parties belong, it is not deemed appropriate to relegate the parties to a civil suit, as has been observed by CAT in the impugned order and it is deemed appropriate to issue directions to the respondents no.1 to 3 in this petition only, to avoid any further litigation.

12. On enquiry with respect to the other benefits like GPF, Gratuity etc. due to the estate of late Lovlin Mehra, the counsel for the respondents no.1 to 3 states that he has no instructions.

13. We accordingly dispose of this petition, by directing as under:-

(i) The respondents no.1 to 3 to forthwith, within one month, compute all the other amounts payable to the estate of late Lovlin Mehra and to first pay Rs.1,00,000/- there out of in the name of the petitioner no.1 and the balance remaining if any, be paid/distributed in the ratio of 1/3rd to the respondent no.4 and 2/3rd to the two petitioners, in the name of the petitioner no.1.

(ii) Similarly, as far as the pension is concerned, the arrears thereof and future pension be paid equally in the name of the respondent no.4 and the petitioner no.1, till he attains the age of 25 years and whereafter in the name of the petitioner no.2, again till he attains the age of 25 years.

(iii) The paternal grandparent of the petitioners no.1&2 is directed to henceforth, if has not already opened, open a bank account in a nationalized bank in the joint names of the petitioners no.1&2, under his guardianship, and all the amounts aforesaid received from the respondents no.1 to 3 be deposited in the said account only and in no other account. The monies so deposited in this bank account be not withdrawn by the paternal grandfather and be rather transmitted to a deposit/investment earning maximum interest and the paternal grandfather of the petitioner, if at any stage requires to withdraw any money, shall not do so save by making an application to the Delhi Legal Services Authority and which, after satisfying itself of the financial need if any, shall order release of such amount as may be deemed proper for the benefit of the petitioners. Once both the petitioners attain majority, they shall be entitled to operate the account and deal with the monies therein.

A copy of this order be forwarded to the bank in which the account in the name of the petitioners no.1&2 is opened or exists.

14. The petition is disposed of.

RAJIV SAHAI ENDLAW, J

AMIT BANSAL, J

FEBRUARY 24, 2021
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