

99 13.06.2022
rkd Ct.15

W.P.A. 10152 of 2017

Smt. Anita Das
-vs-
Union of India & Ors.

Mr. Sambhunath De,
Mr. Ranjit Kumar Ghosh

....for the petitioners.

Ms. Oindrila Ghosh

....for the respondent.

In spite of notice dated 25th November, 2021 no one appears for the added respondent nos.6 & 7. Such notice dated 25th November, 2021 is taken on record.

The Airports Authority of India (for short AAI) is the principal respondent though represented by Ms. Rima Das but she did not appear before this Court when the matter was taken up on 1st March, 2022 and on her behalf Ms. Oindrilla Ghosh, learned advocate prayed for time on 1st March, 2022 and the matter was adjourned acceding to such request made. Today when the matter is called on for hearing again Ms. Oindrilla Ghosh, learned advocate has prayed for time on the ground of Ms. Rima Das, learned advocate representing the AAI but such prayer is refused since the matter relates to release of terminal benefits in favour of the petitioner being the deserted wife of the

deceased employee working in AAI.

Mr. De, learned advocate appears on behalf of the petitioner and submits that her husband died-in-harness on 14th August, 2014 leaving behind two sons and the petitioner being the widow. In the same breath, it has also been submitted on behalf of the petitioner that there was acrimony in between the petitioner and her husband but there was no dissolution of marriage as a result whereof petitioner is entitled to get proportionate shares of terminal benefits in view of death of her husband.

The affidavit-in-opposition used on behalf of the AAI is taken into consideration though the affirmed affidavit is not on record since Ms. Das is not appearing today but the learned advocate representing the petitioner has supplied the copy of the affidavit-in-opposition and this Court has had the action to consider the same and this Court also directs Mr. De to file a copy of such affidavit-in-opposition in course of this day.

From the affidavit-in-opposition, it appears that the concerned authority of AAI has already released Rs.4,33,595/- under group saving Link Insurance scheme, Rs. 6 lakhs under Group Insurance scheme and gratuity amount of

Rs.8,15,817/- proportionately in favour of two sons of the petitioner without keeping the proportionate amount for the petitioner, if on consideration such proportionate amount is found to be payable to the said petitioner being the wife of deceased employee

Taking note of this fact while admitting the writ petition a coordinate Bench directed the concerned authority of AAI not to disburse any further sum which was accrued upon death of the husband of the petitioner as the service benefit to any person till the disposal of the writ petition. However, during pendency of this writ petition another coordinate Bench by passing order dated 20th December, 2019 directed the respondent no.4 to release family pension in favour of the petitioner upon compliance of all formalities and it has been submitted by Mr. De today that presently the writ petitioner is in receipt of family pension.

It has also been contended in the affidavit-in-opposition that a nomination has been exercised during the lifetime by the husband of the petitioner in respect of employee's provident fund in favour of the two sons and mother of the husband of the petitioner.

The question which has arisen in the present writ petition is whether in absence of

formal dissolution of marriage of the petitioner the claim of the petitioner towards terminal benefits in view of death of her husband being an employee of AAI can be denied?

From the materials available on record and also the affidavit used on behalf of the AAI being the principal respondent, it does not appear that there has been dissolution of marriage. In view of such position as emanates from the records and the submission made on behalf of the petitioner, this Court directs the Director, Airports Authority of India (NAD), Eastern Region being the respondent no.4 to take decision on the entitlement of the petitioner to receive proportionate terminal benefits in view of death of her husband in accordance with extant rules of AAI.

Such decision is to be taken by respondent no.4 within a period of six weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or her representative and also to the added respondent nos.6 & 7. A reasoned order shall be passed within the aforesaid period and to be communicated to the petitioner within one week thereafter.

However, it is made clear that such decision in terms of the order passed by this Court today to

be taken based on the fact whether on the date of death of the husband of the petitioner the marriage was subsisting or not.

If it is found that petitioner is entitled to receive the proportionate share of the terminal benefits, the respondent no.4 is further directed to pass necessary order ensuring release of such proportionate amount in favour of the petitioner.

With the above direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)