17.06.2022
sayandeep
Sl. No. 02
Ct. No. 05

WPA 8139 of 2018
With
IA NO:CAN/2/2022

Tapan Kumar Manna & Ors.
-Versus-
Union of India & Ors.

Mr. Ramdulal Manna
Ms. Manju Manna(Dey)
Mr. Sabyasachi Mondal
Mr. Sayan Mukherjee
...... for the petitioners

Mr. Debasish Saha

.... for the S.B.I.

Mr. M. M. Verma
..... for the U.O.I.

It appears from the order dated 24.03.2021 that the petitioner's name has been wrongly described in the cause title of the orders passed by the Court. the petitioner's name is Tapan Kumar Manna and the last of the dated 13.06.2022 should accordingly be corrected.

The petitioner had filed CAN 2 of 2022, to challenge Notice dated 18.04.2022 of the Ministry of Home Affairs/Grih Mantralaya of the Government of India by which the Ministry had stated that the petitioners' case has been examined afresh and has reiterated its earlier decision communicated by a letter dated 9/10 March, 2022. The petitioners' documents have been returned with the request to furnish the documents as requested by the letter dated 9/10 March, 2022.

The letter dated 9/10 March, 2022 was issued in response to a representation made on behalf of the petitioners dated 14.01.2022 in connection with the payment of Life time Arrear(LTA) to the petitioners from 23.02.2016-18.090.2020. The petitioners are the only legal heirs of one late Smt. Kamal Manna, wife of one late Sri Jatindra Nath Manna. The petitioners are the one son and three married daughters of late Jatindra Nath Manna and Smt. Kamala Manna. Smt. Kamala Manna was initially the sole petitioner in the writ petition and is a widow of late Jatindra Nath Manna who died on 22.02.2016. Smt. Kamala Manna thereafter applied for grant of family pension under the Swatantrata Sainik Samman pension(Yojana) Scheme, 1980 which had been sanctioned in favour of Jatindra Nath Manna by way of Pension Payment Order on 04.09.1986. Kamala Manna's application for family pension was made on 30.06.2016 which was also sanctioned, would appear from the Pension Payment Order granted in favour of Kamala Manna's' late husband.

Upon the death of Kamala Manna on 19.09.2020, the present petitioners applied for substitution which was allowed by an order of coordinate Bench on 09.02.2021. The petitioners as the legal heirs and successors of late Jatindra Nath Manna and late Kamala Manna were brought on record.

The issue which is to be adjudicated is whether the impugned letters of the Ministry of Home Affairs dated 9/10 March, 2022 and 18th April, 2022 can be sustained. The said letters directed that the petitioners should furnish a Succession Certificate under Section 372 of the Indian Succession Act, 1925 and other documents including Bank Account details and attested copies of PAN Card and Aadhaar Card. There is no controversy in relation to the Bank account details and PAN Card and Aadhaar Card. The only issue is whether the petitioners are required to produce the Succession Certificate as directed by the Home Ministry.

The petitioners' claim is for Lifetime Arrears of family pension from 26.06.2016-18.09.2020. The only fact which the petitioners are hence required to prove is that the petitioners are the only legal heirs and representative of the late Kamala Manna but as the widow of the late Jatindra Nath Manna, was also sanctioned the family pension under the Freedom Fighters Schemes. An order passed by a coordinate Bench on 06.12.2021 in WPA 13499 of 2021 (*Subhas Chandra Khatua & Ors. vs. Union of India & Ors.*) was on identical facts. In that case, the petitioners had approached the writ court against a demand of a Succession Certificate for the purpose of grant of accrued pensionary dues which were payable to the late mother of the petitioners before the Court. Upon considering the relevant Judgment including of *Smt. Savitri Devi & Anr. vs. District & Sessions Judge, Hanumangarh* as well as the decision of the Kerala High Court in WPA 556 of 2014, the Court held that although a copy of the Succession Certificate may be necessary to be produced in case where the evidence of Heirship Certificate is required, there is no such requirement where the petitioners have been able to prove that they are the only lawful claimant to the debt payable by the Union of India. The Court accepted the Heirship Certificate of the local authorities as evidence in this respect. The present case fits entirely with the decision of the coordinate Bench in (*Subhas Chandra Khatua & Ors. vs. Union of India & Ors.*). The petitioners have produced an Heirship Certificate dated 17.03.2022 from the concerned Gram Panchayat which has been signed by the Pradhan. The Certificate states that the four petitioners before the Court are the only legal heirs of late Jatindra Nath Manna and late Kamala Manna. It is also states that Smt. Kamala Manna died on 09.09.2020 leaving behind the four petitioners as her only legal heirs. Section 372 of the Indian succession

Act, 1925 makes it clear that Pension receivable by the petitioners on account of the death of a parent is not debt within the meaning of the said provisions. Hence, there can be no requirement of producing a Succession Certificate in facts which are present before this Court. Moreover, one of the impugned documents of being 9/10th March, 2022 states the names of all the four petitioners before this Court as the legal heirs of late Smt. Kamala Manna. The Home Ministry, therefore having taken its stand, cannot insist upon a Succession Certificate particularly when there is an order of this Court as stated above. The Certificate of the local Administration should be deemed to be sufficient for the evidence of the fact that the petitioners are the only legal heirs and representative of late Jatindra Nath Manna and late Smt. Kamala Manna.

This Court is hence of the view that the requirement in the impugned letters of 9/10th March, 2022 and 18th April. 2022 cannot be sustained and the said documents are hence cancelled. The respondent No. 3 being the under Secretary to the Government of India, Ministry of Home Affairs, Freedom Fighters' Division, is hence directed to release the Lifetime Arrears of pension to the petitioners for the period of 23.02.2016-18.09.2020 on the basis of the Heirship Certificate dated 17.03.2022 within a period of four weeks from the date of communication of this order.

Since there has been an admitted delay on the part of the Ministry, the said amount shall be disbursed to the petitioners along with interest at 6% on the amount payable to the petitioners which shall be included in the same to be disbursed to the petitioners.

WPA 8139 of 2018 and CAN 2 of 2022 are accordingly disposed of in terms of the above.

(Moushumi Bhattacharya, J.)