

45.
10.11.2022
S.D.

W.P.A. 9759 of 2022

**Smt. Puspo Ghosh
Vs.
The Union of India & Ors.**

Ms. Indrani Pal

... For the Petitioner

Mr. Debapriya Gupta

..For the Respondent Nos. 1 to 5.

The petitioner is the mother of the deceased head constable who was employed with the Border Security Force (in short 'BSF'). Her son died on December 25, 2019.

Ms. Pal, learned advocate appearing on behalf of the petitioner submits that the petitioner is entitled to 1/3rd share in the estate of her deceased son.

Mr. Gupta, learned advocate appearing on behalf of the respondent nos. 1 to 5 submits that a substantial sum has been already disbursed in favour of the respondent no. 6 being the wife of the deceased head constable. The respondent no. 6 is the widow of the deceased employee and the respondent no. 7 is the minor daughter of the deceased.

Despite service, the added respondent nos. 6 and 7 are not represented in Court today.

In terms of the order dated October 31, 2022 passed by this Court, Ms. Pal submits a calculation sheet in Court today. From the calculation sheet, it appears that a sum of Rs.68,64,828/- was already disbursed in favour of the respondent no. 6. The petitioner would be entitled to Rs.22,88,276/- being 1/3rd share in the death benefits available to the heirs/legal representatives of the deceased employee.

This Court finds a sum of Rs.3,31,261/- is due and payable to the heirs of the deceased pursuant to the Central Government Employees' Group Insurance Scheme and the Leave Encashment benefit payable to the deceased.

This Court directs the respondent no. 5 and/or any other appropriate authority concerned to disburse the said sum of Rs.3,31,261/- in favour of the petitioner within four weeks from date. This order is passed keeping in mind the fact that the petitioner being the mother of the deceased was only paid a sum of Rs.50,000/- by the private respondent no. 6 when her entitlement was to the tune of Rs.22,88,276/- being 1/3rd share of the amount paid to the respondent no. 6.

Despite repeated service, the respondent no. 6 absented herself from being represented before this Court. Such absence has led this Court to form the view that the respondent no. 6 is avoiding payment of the legitimate dues

of the petitioner. However, the issue regarding payment of legitimate dues of the petitioner by the private respondent no. 6 can only be agitated before a civil Court. The writ Court is not the appropriate forum for agitating the same. Therefore, despite the fact that the respondent no. 6 is the nominee of the deceased, this Court directs the respondent authorities to pay Rs.3,31,261/- to the petitioner, keeping equity of the situation in mind.

The calculation sheet submitted in Court today and a copy of which is handed over to Mr. Gupta is retained with the records.

With the direction aforesaid, **W.P.A. 9759 of 2022 is disposed of.**

Since no affidavits are called for, the allegations contained in the writ petition are deemed not to have been admitted by the parties.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

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

(Lapita Banerji, J.)

