

20.
15-09-2022
(Ct. no.21)

WPA 20161 of 2022

Smt. Pinky Singh
Vs.
Union of India & Ors.

Mr. Animesh Paul

... For the Petitioner.

Mr. Arijit Majumdar

... For Respondent Nos.1 to 3.

Affidavit-of-Service filed in Court today by the writ petitioner be taken on record.

In this writ petition, the petitioner claims for disbursement of the death settlement benefits payable to her minor daughter named Aaroahi, as reflected in the Office Memo No.Sr. DSC(C)RPF/ER/HWH dated September 27, 2021 passed by the Senior DSC(C)/RPF/ER/HWH.

The petitioner claims to be the second wife of a Constable in Railway Protection Force, Eastern Railway, Howrah Division having Constable No.10303/RPF East in Commando Company. The husband of the writ petitioner died on March 09, 2021 while discharging the duty of a Bodyguard of the Deputy Chief Security Commissioner, RPF.

After the death of the petitioner's husband, there were conflicting claims between the writ petitioner and the respondent no.4, being the first wife of the deceased Constable.

By an order passed by a coordinate Bench of this Hon'ble Court on August 02, 2021 passed in WPA

8762 of 2021, the respondent no.2 or any other competent officer was directed to release and disburse the death benefits of the said Constable after affording reasonable opportunity of hearing to the petitioner as well as the respondent no.4. Pursuant to the aforesaid order, dated August 02, 2021, the Senior Divisional Security Commissioner/Respondent No.3 passed the reasoned order dated September 27, 2021 whereby it was held that even though the marriage between the petitioner and the late Constable was void, the girl child/Aarohi born on October 31, 2017 from their wedlock is eligible for Family Pension and other settlement dues.

Mr. Animesh Paul, learned Counsel, appearing for the writ petitioner, prays for implementation of the said order. However, he submits that he is aggrieved by the fact that the Guardianship Certificate was required to be produced by the writ petitioner in respect of her minor child. He submits, that there is no dispute with regard to the fact that the writ petitioner is the mother of the minor daughter, Aarohi. The writ petitioner has produced the necessary documents to show her parentage including the Birth Certificate of the child issued by the Grama Panchayat, Baruna, Government of Bihar. In the circumstances, he submits that there is legally valid reason for withholding the death settlement dues as well as Family Pension payable to the minor daughter of the late Constable.

He also refers to Section 6 of the Hindu Minority and Guardianship Act, 1956 in support of his submission that in the case of a illegitimate girl, the mother was the natural guardian of the minor.

Mr. Arijit Majumdar, learned Counsel, appearing for the respondent nos.1 to 3, submits that the authorities have no dispute regarding the claim of the minor daughter. But Guardianship Certificate should have been produced by the writ petitioner before such claim could have been disbursed.

Having considered the rival submissions of the parties and the materials placed on record, I find that since there is no dispute on fact that the writ petitioner is the second wife of the late Constable and the minor daughter/Aarohi is the heir of the late Constable, there is no legally tenable reason to withhold the disbursement of death settlement benefits and the Family Pension in favour of the minor daughter. Under the 1956 statute also the mother of an illegitimate unmarried minor daughter was the natural guardian. Therefore, there is no reason to unnecessarily delay the disbursement of benefits to the writ petitioner on behalf of her minor daughter.

Let such disbursement be made in terms of the order dated September 27, 2021, within eight weeks from date.

With the directions aforesaid, the writ petition being **WPA 20161 of 2022** is **disposed of**.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)