IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6073 of 2017 (O&M)
Reserved on November 22, 2022
Pronounced on: December 5, 2022

Jagsir Singh

...Petitioner

Versus

Punjab State Power Corporation Limited and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. G.S. Punia, Senior Advocate with
Mr. Amitoj Singh, Advocate,
for the petitioner.

Mr. PPS Thethi, Advocate,
for the respondents.

JAISHREE THAKUR, J.

1. The petitioner herein by way of instant writ petition seeks issuance of a writ in the nature of Mandamus directing the respondents to pay gratuity to the petitioner and appoint him on compassionate ground and grant any other benefits as admissible on account of death of Kulwant Singh.

2. The brief facts leading to the controversy involved in the petition are that Kulwant Singh son of Hardit Singh was serving as a Lineman with the erstwhile Punjab State Electricity Board, now known as Punjab State Power Corporation Limited, who died in harness on 25.07.2000. He was issueless and had adopted the petitioner. Respondent No.1, vide its letter/Memo No. 5397 dated 11.07.2003 (Annexure P/1)

informed the petitioner that deceased employee Kulwant Singh had nominated the petitioner as his nominee in G.P. Fund and called upon him to obtain succession certificate and proof of adoption. Consequently, the petitioner filed an application under Section 372 of the Indian Succession Act, 1925 in the Court for grant of succession certificate being adopted son of Kulwant Singh. In support of his claim, the petitioner examined as many as four witness, including himself and his natural father. The court, after taking into consideration the evidence so produced by the petitioner, granted succession certificate in favour of the petitioner. However, since the succession certificate so produced was related to only G.P. Fund, the Account Officer demanded succession certificate in respect of gratuity, leave encashment etc. Therefore, the petitioner moved another application to the Civil Court for grant of extended succession certificate for Death-cum-Retirement Gratuity, leave encashments and other financial benefits. The same was granted on 9.1.2007. After getting the succession certificate and extended succession certificate, the petitioner was paid G.P. Fund of ₹58923 and leave encashment amounting to ₹25,004/- on 27.12.2005 and 17.1.2007 respectively. However, other benefits i.e. death-cum-retirement gratuity and appointment on compassionate ground, being adopted son of the deceased, and payment of other financial benefits i.e. solatium etc. were not made. Consequently, the petitioner served a legal notice dated 2.2.2007 (P-6), claiming gratuity, pension etc, because he had obtained succession certificate in respect of gratuity. Since the legal notice remained unyielded, the petitioner filed an application under Order 21 Rule 32 of the Code of

Civil Procedure for violating the orders of the Court, but the same was dismissed.

In the meantime, the respondents filed an application under Section 383 of the Indian Succession Act (P-8) for revoking the succession certificate as well as extended certificate obtained by the petitioner on the ground that the same were obtained fraudulently by concealing material facts. It was pleaded that death-cum-retirement gratuity and leave encashment of deceased Kulwant Singh could only be given to the member of family of deceased employee. It was also pleaded that the petitioner failed to produce adoption deed showing him to be adopted son of Kulwant Singh nor any adoption deed was proved in the succession application. However, the court dismissed the application on 26.8.2015 (P-10) holding that the respondents have no locus standi to challenge the order of issuance of succession certificate in favour of the petitioner. Thereafter, the petitioner moved a representation dated 18.2.2016 (P-11), seeking compassionate appointment, which was replied by the respondents vide letter dated 20.9.2016 (P-12) stating that the Court has not declared him as adopted son of late Kulwant Singh. On 24.10.2016 (P-13), the petitioner again served a legal notice for grant of compassionate appointment, but the same was replied vide communication dated 30.11.2016 (P-14), reiterating that till date the petitioner has not produced any order of the court declaring him to be adopted son of late employee Kulwant Singh. It is submitted that neither appointment on compassionate ground was given nor payment of solatium of ₹3,00,000/- on account of death of Kulwant Singh has been made to the petitioner, hence the instant writ petition.

3. Learned counsel appearing on behalf of the petitioner would argue that the respondents are asking time and again to produce an adoption deed before his claim could be settled. It is submitted that as per the succession certificates, the court accepted the petitioner to be an adopted son of late Kulwant Singh and therefore, he ought to have been given compassionate appointment as well as other financial benefits due on account of death of Kulwant Singh.

4. Per contra, learned counsel appearing on behalf of the respondents would argue that the petitioner, who claims himself to be the adopted son of late Kulwant Singh has neither produced any such adoption deed nor any declaratory decree from a competent court declaring him to be the adopted son. In the absence of such adoption deed or declaration by the court, no relief can be granted to the petitioner. It is also submitted that another person, namely Amar Singh, claiming himself to be the adopted son of late Kulwant Singh, approached the respondents while submitting a notarized copy of adoption deed dated 5.8.1998, but his claim was rejected, as age in the adoption deed was mentioned as 15 years and 8 months, whereas as per law a child can be adopted till the age of 15 years. It is also submitted that since Kulwant Singh died issueless, various persons are approaching the respondents claiming to be his son.

5. I have heard learned counsel for the parties and have gone through the paper book.

6. The sole question that falls for consideration before this Court

is, whether a Succession Certificate can be treated as a Adoption Deed?

7. At the outset, it is noticed that in view of the reply filed by the respondents, disputed question of facts are involved in the instant writ petition, which cannot be gone into by this Court in the present proceedings. On the one hand, the petitioner claims himself to be the adopted son of Kulwant Singh, on the basis of the succession certificates obtained by him from the civil court, on the other hand, as per the reply filed by the respondents, there are other persons, who too are approaching the respondents claiming themselves to be son of late Kulwant Singh, who died issueless. Therefore, whosoever claims himself to be the adopted son of Kulwant Singh, should have valid adoption deed, for Kulwant Singh died issueless.

8. Now reverting to the facts of the instant case, as already noticed, the petitioner is claiming certain financial benefits due on account of the death of Kulwant Singh, who died issueless, on the basis of a succession certificates obtained by him from the civil court. In fact, a succession certificate, under the Indian Succdession Act, is a document that gives authority to the person who obtains it, to represent the deceased for the purpose of collecting debts and securities due to him or payable in his name. Usually, a succession certificate is the key in the absence of a will. A succession certificate will be the primary document through which the heirs can stake a claim to the assets of a deceased relative. Issuance of succession certificate does give right of succession to the claimed property of a deceased person, whereas adoption deed is a legal document wherein all

rights and responsibilities, along with filiation, from the biological parent or parents are transferred to adopted parents. A succession certificate can be granted in favour of any person, including a nominee. A nominee is someone who has been designated as the person who would receive the proceeds of the account in the case of unexpected death of persons holding the money market instruments. The Supreme Court, while dealing with similar circumstances, in the case of **State of Chhattisgarh and others Versus Dhirjo Kumar Sengar 2009 (7) SLR 140** held as under:-

> "*A succession certificate can be granted in favour of any person. It may be granted to an heir or a nominee. By reason of grant of such certificate, a person in whose favour succession certificate is granted becomes a trustee to distribute the amount payable to the deceased to his heirs and legal representatives. He does not derive any right thereunder. The succession certificate merely enabled him to collect the dues of the deceased. No status was conferred on him thereby. It did not prove any relationship between the deceased and the applicant. Even otherwise, the respondent and his father were entitled to the said dues being his heirs and legal representative...*"

9. The succession certificates produced by the petitioner nowhere declare him to be the adopted son of deceased Kulwant Singh. The order of the court declining to accept adoption in the absence of adoption deed has not been challenged in appeal, hence the finding is final. Therefore, the claim of the petitioner for compassionate appointment has rightly been rejected in the absence of an adoption deed. Moreover, there is no other document on record, like a school leaving certificate, record of a Municipal

Committee etc. reflecting the name of Kulwant Singh entered as father of the petitioner. Mere statement given in court by the biological father cannot be taken into consideration as he is an interested party.

10. For the reasons afore-stated, the writ petition is dismissed.

December 5, 2022 **(JAISHREE THAKUR)**
prem **JUDGE**

Whether speaking/reasoned : Yes
Whether Reportable : No