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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 14.09.2022*

\+ W.P.(C) 6663/2021 & CM APPL.20994/2021

MS SUNITA ..... Petitioner

Through: Mr. A.K. Trivedi and Mr. Naveen Kumar, Advocates

versus

UNION OF INDIA ..... Respondent

Through: Mr. Ajay Jain, Sr. Panel Counsel with Mr. Keshav Ahuja, Advocate
Mr. Hemendra Singh, Dy. Commandant (Law), BSF

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T ***(oral)***

1. Vide the present petition, the petitioner seeks following relief(s):

> *"(a) Declare the whole action of the respondents as illegal, unjust, arbitrary and discriminatory in not releasing the service pension and life time arrears of deceased husband and not sanctioning and granting family pension to the petitioner, despite the fact that the petitioner is entitled for the same.*
> *(b) Direct the respondents to release the arrears of service pension of Late Raj Singh wef 01/06/2005 to 14/03/2020 alongwith Gratuity, GPF amount, Insurance and all other terminal benefits to the petitioner alongwith interest @ 18% till payment.*

(c) Direct the respondents to sanction and make payment of family pension to the petitioner wef 15/03/2020 i.e. the date of death of her deceased husband and the petitioner may be entitled for arrears of family pension alongwith interest @ 18% p.a. till payment with all consequential benefits.
(d) Issue a writ of mandamus or any other writ /directions /orders as may be deemed just and proper in the facts and circumstances of the case.
(e) Award cost."

2. Learned counsel for petitioner submits that Pension Payment Order (PPO) of Rs.7,55,497/- has been issued in favour of petitioner on account of arrears of family pension, however, gratuity, leave encashment alongwith other statutory retiral benefits have not been released in favour of the petitioner who is wife of the deceased employee of the respondent.

3. Learned counsel appearing on behalf of respondent, on instructions, submits that since the husband of the petitioner did not sign the requisite documents, therefore, gratuity, leave encashment alongwith other statutory retiral benefits could not be assessed in favour of the deceased employee.

4. Learned counsel for respondent further submits that as per the rule, gratuity, leave encashment alongwith other statutory retiral benefits are to be issued in favour of the deceased employee only and not to any of the kin of the said employee.

5. It is not in dispute that the arrears of the family pension have already been paid in favour of the petitioner. Therefore, we do not agree with the contention of the learned counsel for the respondent that if the documents are not signed by the deceased employee, the gratuity, leave encashment alongwith other statutory retiral benefits cannot be issued in favour of kith and kin of said employee and there is no such provision thereto.

6. Accordingly, since the petitioner is getting family pension, therefore, there is no justification from the respondent's side why the retiral benefits have not been issued.

7. In view of above, we hereby direct the respondent to release all the gratuity, leave encashment alongwith other statutory retiral benefits pending in favour of petitioner within four weeks from today.

8. It is made clear that if the gratuity, leave encashment alongwith other statutory retiral benefits are not paid to the petitioner within four weeks, the same shall be paid by the respondent with interest @ 9 % per annum till the date of realisation.

9. With the aforesaid directions, the present petition and pending application are disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

SEPTEMBER 14, 2022
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