

28.06.2023
Ct. No.12
Sl. No.3
akd

W.P.C.T. 53 of 2023

Union of India & Ors.
Vs.
Gopal Choubey & Ors.

Mr. Samitendra Narayan Dutta
Ms. Madhu Jana
... .. for the petitioners

Mr. Sharanya Chatterjee
Mr. Nepesh Majhi
... for the respondents

The respondents are the sons and daughters of one Krishna Choubey, a retired employee of the petitioners. The said Krishna Choubey voluntarily retired on 31.12.1997. Subsequently, he died on 31.09.2009 leaving behind his wife, three sons and three daughters. Smt. Bindubasini Choubey, claiming to be his wife sought for family pension from the petitioners. The petitioners directed her to obtain succession certificate. A succession certificate bearing Succession Case No. 59 of 2012 dated 16.07.2012 was issued by the learned District Delegate, Asansol declaring that Smt. Bindubasini Choubey and the respondents herein are the legal heirs of the deceased Krishna Choubey, the employee of the petitioners. Before the said succession certificate was produced before the petitioners, the said Smt. Bindubasini Choubey died on 25.10.2012. When the respondents herein approached the petitioners for payment of arrears of family pension payable to their mother, the petitioners directed the respondents to obtain another succession certificate. The respondents approached the District Delegate, Asansol and the learned District Delegate, Asansol

issued another succession certificate bearing Succession Case No.03 of 2013 dated 18.03.2013. The respondents produced the succession certificate to the petitioners and sought for release of accrued family pension payable to their mother. When the respondents produced the succession certificate, the petitioners directed the respondents to produce the title declaration to show that Smt. Bindubasini Choubey is the legally married wife of Late Krishna Choubey.

When the respondents approached the petitioners again by letter dated 12.11.2014, the petitioners directed the respondents to obtain the title declaration. In such circumstances, the respondents filed O.A. 267 of 2015. The Tribunal by the order dated 02.09.2022 allowed the Original Application and directed the petitioners to release the dues with arrears accrued in favour of the deceased father of the respondents i.e. Late Krishna Choubey taking into consideration the succession certificate dated 16.07.2012 (obtained by the wife of Krishna Choubey namely, Smt. Bindubasini Choubey i.e. the mother of the respondents) and 18.03.2013 (issued by the District Delegate, Asansol in favour of the respondents) within a period of 90 days and also directed the petitioners to release and credit the payable amount of dues and arrears with 8% interest for the delayed payment till the same is released and paid to the respondents.

Against the said order, the petitioners have come out with the present writ petition.

Learned Counsel appearing for the petitioners contended that at the time of retirement of the employee, Sri Krishna Choubey, he declared that he is a widower and the name of his

son is Sri Asutosh Choubey. After twelve years of such declaration and after his death on 31.09.2009, Smt. Bindubasini Choubey, claiming to be the widow of the employee sought for family pension. In view of the same the petitioners directed the respondents to obtain title declaration that Smt. Bindubasini Choubey is the legally married wife of Krishna Choubey.

The Tribunal without appreciating the stand taken by the petitioners in the reply filed before the said Tribunal and relying on the two succession certificates produced by the respondents erroneously ordered directing the petitioners to pay the arrears of accrued family pension to the respondents. On the failure of the respondents to produce the title declaration, the respondents are not entitled to any amount. If any claim is made by Sri Asutosh Choubey, then the petitioners will be in jeopardy to pay the amount to Asutosh Choubey. In view of the same, the petitioners pray for setting aside the order of the Tribunal as the respondents are not entitled to any amount.

Learned Counsel appearing for the respondents submitted that the respondents are the legal heirs of the deceased employee, Krishna Choubey. Initially on the death of their father, their mother, Smt. Bindubasini Choubey approached the petitioners for arrears of pension payable to the father of the respondents as well as family pension. As per the direction of the petitioners, their mother, Smt. Bindubasini Choubey approached the District Delegate, Asansol and obtained succession certificate. Before the said certificate is produced by their mother, she died on 25.10.2012. When the respondents approached the petitioners for payment of arrears of pension payable to their father and arrears of family pension

payable to their mother, again the petitioner no.3 directed them to produce the succession certificate. Even after producing two succession certificates before the petitioners, they were again directed to produce the title declaration.

In view of the same, the Tribunal after taking into consideration the two succession certificates dated 16.07.2012 and 18.03.2013 respectively and as there was no claim by the other person namely, Sri Asutosh Choubey directed the petitioners to release the amount in favour of the respondents. There is no error in the order passed by the learned Tribunal. Accordingly, he prays for dismissal of the writ petition.

Heard Mr. Samitendra Narayan Dutta, learned Counsel for the petitioners and Mr. Sharanya Chatterjee, learned Counsel for the respondents. Perused the materials on record.

From the above materials, the above contention of the petitioners cannot be accepted on the ground that Smt. Bindubasini Choubey, claiming to be widow of the deceased employee, Krishna Choubey, the petitioners did not direct her to get title declaration. They only asked her to produce the succession certificate. She approached the competent civil court for issuance of succession certificate and the competent civil court issued succession certificate bearing Succession Case No. 59 of 2012 dated 16.07.2012 showing her as the widow of Late Krishna Choubey and the respondents are the sons and daughters of the deceased employee. Unfortunately, before production of the said succession certificate, she died on 25.10.2012. Again the petitioners directed the respondents to produce the succession certificate showing that they are the legal heirs of the deceased employee and Smt. Bindubasini

Choubey. At the instance of the petitioners, the respondents obtained another succession certificate bearing Succession Case No.03 of 2013 dated 18.03.2013 declaring them as the legal heirs of the deceased employee and Smt. Bindubasini Choubey. When the same was produced before the petitioners, the petitioners took a different stand directing the respondents to produce the title declaration. The petitioners have not given any reason for not accepting the two succession certificates issued by the two competent civil courts.

The claim of the petitioners that their legal advisor advised them for production of title declaration is not valid and legal. Further, the contention of the learned Counsel for the petitioners that if any claim is made by one Asutosh Choubey then the petitioners have to pay the amount, also cannot be accepted in view of the fact that even till today after the death of the employee, Krishna Choubey on 31.09.2009, there was no claim made by him.

The petitioners are bound to act upon the succession certificates i.e. Succession Case No. 59 of 2012 dated 16.07.2012 and Succession Case No.03 of 2013 dated 18.03.2013 and release the arrears of family pension payable to the mother of the respondents i.e. Smt. Bindubasini Choubey within a period of eight weeks from the date of receipt of a copy of this order.

With the aforesaid directions, the writ petition is dismissed.

There shall be no order as to costs.

Urgent xerox certified copy of this order, if applied for, be given to the parties on usual undertaking.

(V. M. Velumani, J.)

(Rai Chattopadhyay, J.)