* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order: 18th September, 2023**

\+ W.P.(C) 12226/2023 & CM APPL No. 48081/2023

SOMA BHATTACHARJYA ..... Petitioner

Through: Mr. Suhail Sehgal and Mr. Prashant Drolia, Advocates.

versus

UNIVERSITY OF DELHI & ANR. ..... Respondents

Through: Mr. Mohinder J.S. Rupal, Mr. Hardik Rupal and Ms. Sachpreet Kaur, Advocates for R-1.
Mr. Anurag Mathur, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The present petition has been filed on behalf of the petitioner, praying for the following:

> *"a. Issue a writ in the nature of Mandamus or any other writ, order, or direction, as may be deemed appropriate by the Hon'ble Court, directing the Respondents herein to release the dues of the Petitioner's late husbands dues of provident fund, gratuity, and GIS, in an expeditious manner;*
> *b. Pass any other order as the Hon'ble court deems fit and proper in the circumstances of the present case."*

2. The relevant facts leading to the filing of the instant petition have been reproduced as under:

a. The petitioner is the wife of Late Dr. Deb Kusum Das, who expired on 24th November. Late Dr. Deb Kusum Das joined the Economics Department of Ramjas College (hereinafter respondent college) as a lecturer on 13th October, 1986. The deceased husband is left behind with the petitioner and his two minor children.

b. After the death of her husband, the petitioner submitted an application seeking the dues of her deceased husband, to support herself and her two minor children. Thereafter, *vide* letter dated 31st January 2022, the respondent college apprised the petitioner that only the late Mother-in-law and late Aunt are eligible to receive the dues of the deceased since their names have been nominated by the petitioner as nominees.

c. In her response to the letter dated 31st January 2022, the petitioner submitted that Aunt, Keka Roy Chaudhary, did not fall under the definition of "family" as per the provisions of Employees Provident Funds and Miscellaneous Provisions Act, 1952, and the Employees' Provident Funds Scheme, 1952.

d. A meeting of governing body of the respondent college was held, whereby, the petitioner was directed to submit an indemnity bond, countersigned by two witnesses who are in the General Pension Scheme (hereinafter "GPF"e and also on roll of the respondent college. The witnesses were to submit a separate undertaking stating that if the contents of were to be found untrue, they shall be liable to reimburse the college.

e. In the interim the respondent No. 1 and the respondent college released the pensions due to the petitioner but held back the Provident Fund (hereinafter "GPF"), Gratuity, and Group Insurance Scheme..

f. It is stated that the petitioner was unable to procure the required signatures on the said indemnity bonds, following which *vide* letter dated 24th August 2023, the respondent college refused to release the dues to the petitioner due to the non-submission of the indemnity as instructed by the respondent college. The respondent college further directed the petitioner to submit a succession certificate in addition to the legal heir certificate dated 14th March 2022 (hereinafter "legal heir certificate").

g. Aggrieved by the direction to submit the succession certificate despite having a legal certificate, the petitioner has preferred the instant petition.

3. Learned counsel appearing on behalf of the petitioner submitted that the respondent college had passed certain directions wherein, it has asked the present petitioner to submit a succession certificate for the release of dues of the petitioner's deceased husband.

4. It is submitted that the said direction of the respondent college is arbitrary and illegal since the petitioner has already submitted a legal heir certificate with the respondent college.

5. It is submitted that as per clause 2, 61 and 70 of the Employees Provident Fund Scheme, 1952, PF dues of the petitioner cannot be withheld as the same would tantamount to an illegal conduct which is contrary to the law.

6. It is submitted that the respondents cannot take one stand for the family pension and a different stand for the rest of the statutory dues in accepting the petitioner as the legal heir of her deceased husband.

7. It is further submitted that there is no requirement in law, to give any indemnity to the respondents or to produce two witnesses who are enrolled with the GPF pension scheme and are also on the roll of the respondent college. The said direction of the respondent college is *malafide* and such illegal exercise of power by the respondent college is bad in the eyes of law.

8. It is submitted that the respondents have asked the petitioner to furnish unnecessary documents and requiring their own employee only to act as a "witness" and yet be bound by the indemnity being given by the petitioner. The same is incoherent and without any proper reasoning.

9. It is submitted that the legal heir certificate clearly establishes the petitioner is the legal heir of her deceased husband to whom all the statutory dues are to be released. It is also submitted that it is a matter of fact that no other person has made any claim on the above said dues of the Late Dr. Deb Kusum Das.

10. It is submitted that the respondents have acknowledged the fact that the petitioner is the legal heir of the deceased as the pension amount of the deceased has been furnished to the petitioner and even so, the respondent college is adamant upon its arbitrary directions.

11. Learned counsel appearing on behalf of the petitioner cited judgments titled ***D. Gopi* (C.R.P. No. 378/2021) dated 17th March 2021 and *Yerukali Chinna Balaiah vs. Special Deputy Collector, L.A. Unit* C.R.P. No. 1620/2005) dated 21st July 2005**, to support their argument that a legal heir certificate is sufficient to establish a relationship with the deceased person.

12. *Per Contra,* learned counsel appearing on behalf of the respondents have vehemently opposed the arguments advanced on behalf of the petitioner and submitted that the same is liable to be dismissed, being devoid of any merits.

13. It is submitted that the deceased had previously nominated his late mother and late aunt as nominees, in light of which the respondent college had directed the petitioner to submit an indemnity bond, countersigned by two witnesses who are enrolled in the GPF pension scheme and also on roll of the respondent college.

14. It is submitted that the witnesses were to submit a separate undertaking stating that the petitioner is the legal heir of the concerned decease and if found untrue, they shall also be liable to reimburse the respondent college. It is also submitted that the same directed to be done, in order to avoid any legal disputes that may arise out of the previous nominations made by the deceased.

15. It is further submitted that the petitioner failed to submit the abovementioned indemnity bond, following which the respondent college provided the petitioner with a subsequent chance to procure a succession certificate and the same was also done in order to avoid litigations that may arise as a result of the previous nominations.

16. It is therefore submitted that the present petition is devoid of merit and may be dismissed.

17. Heard the learned counsel appearing on behalf of the parties and perused the record.

18. It is the case of the petitioner that the respondent college has acted beyond the statutory provisions by directing the petitioner to produce a succession certificate even though they have submitted a valid legal heir certificate. It has been contended on behalf of the petitioner that she is the wife of the deceased employee of the respondent college and the said fact same has been established *vide* the legal heir certificate dated 14th March 2022, which has been already produced before the respondent college. It has been further contended that the petitioner is the sole heir of the deceased, and no other claim has been made pertaining to the dues of her deceased husband.

19. In rival contentions the respondent has contended that the petitioner was asked to produce the succession certificate as she had failed to submit the indemnity bond as required by the respondent college. It is further contended that the deceased had nominated his late mother and late aunt as

nominees for the GPF as a result of which the indemnity bond was required, to avoid further litigation that may arise out of the said nominations.

20. Now adverting to the adjudication of the instant dispute. This Court has perused the letter dated 24th August 2022, wherein, the respondent college had issued directions to the petitioner stating that she would be able to claim the dues of the deceased provided that she produces an indemnity bond countersigned by two witnesses who are enrolled in the GPG pension scheme and are also on the roll of the respondent college. The relevant paragraph of the said letter has been reproduced herein:

> *"The recommendations of the Legal Committee were considered & accepted by the Governing Body which recommends that the PF/Gratuity fund may be released in favour of Ms. Soma Bhattacharjya after taking the Indemnity Bond from Ms. Soma Bhattacharjya stating that in case of any legal dispute in future she will indemnify the College to that extent. The said Indemnity Bond should also be countersigned by the two witnesses who are also in the GPF pension scheme and also on the roll of College. A separate undertaking be obtained from attesting witnesses to the effect that they know Ms. Soma Bhattacharjya personally and if found untrue, they shall be personally liable to reimburse the College. After completing the formalities and taking the approval from the Chairman, Governing Body, the fund may be released in favour of Ms. Soma Bhattacharjya wife of Late Dr. Deb Kusum Das. She may also be asked to submit a copy of any document / any Govt. insurance scheme wherein she was the nominee of her husband." You are requested to complete the formalities as mentioned above at the earliest."*

21. Pursuant to the abovementioned letter, the petitioner failed to present the required indemnity bond, following which *vide* letter dated 24th August 2023, the respondent college provided the petitioner with another chance to claim the dues by procuring a succession certificate. The relevant paragraph of the said letter has been reproduced herein:

> *"I write this to inform you that the Legal Committee of the Governing Body in its meeting held on 17-8-2023 resolved as follows :*
> *It was resolved that Ms. Soma Bhattacharjya w/o Lt Dr. Deb Kusum Das in the Department of Economics has failed to submit the Indemnity Bond with proper witnesses from College employees hence, she should be asked to submit a Succession Certificate from the Hon'ble Court." You are requested to kindly submit the Succession Certificate from the Hon'ble Court as mentioned above at the earliest."*

22. In order to adjudicate the instant petition, it is imperative to analyse the purpose of a succession certificate. It is well settled that a succession certificate can be granted in favour of any person be it a nominee or an heir. A person in whose favour such certificate is granted becomes a trustee to distribute the amount payable to the deceased and their heirs. The holding of the succession certificate merely enables to the concerned to collect the dues of the deceased. The same has been observed by the Hon'ble Supreme Court in case titled ***Banarsi Dass vs Teeku Dutta,* (2005) 4 SCC 449**.

23. Upon perusal of the annexure appended to the instant petition such as Annexure P- 9, Annexure P-10, Annexure P-11 and taking into consideration the fact that the respondent college has already released

certain amount of pension due to the deceased husband, this Court is of the view that the petitioner is undisputedly the wife of the deceased, however while claiming dues, was apprised that the deceased had previously nominated his late mother and aunt for the same.

24. In order to gain some clarity on the situation and to avoid further disputes and litigation, the respondent college had directed the petitioner to submit an indemnity bond, countersigned by two witnesses who are in the GPF pension scheme and are also on the roll of the respondent college. The respondent college had further stated that the witnesses were to submit a separate undertaking stating that the petitioner was known to them and if the same was found untrue, they would be liable to reimburse the college, in order to avoid legal disputes that may arise out of the previous nominations made by the deceased, however, the petitioner did not comply with the said direction. The respondent college further granted an opportunity to the petitioner to submit a succession certificate and collect the dues of the deceased; however, the petitioner chose to prefer the instant petition.

25. At this stage, it becomes imperative to discuss the power of this Court while issuing a writ of mandamus. The law is well settled with regard to the scope of mandamus issued by High Courts. A writ of mandamus may be issued but remains limited to cases wherein there exists a legal right in the petitioner with a corresponding legal duty of the respondent. Even in such circumstances, the Courts will refrain from interfering unless, a clear-cut case for interference is made out.

26. Mandamus is one of the prerogative writs issued by the High Court or the Supreme Court in the manner of command to any authority that falls under the definition of "State" as per Article 12 of the Constitution of India, for the purpose of fulfilling their constitutional/ statutory public duty. It is used as a last resort in cases where the Court is satisfied that without its intervention; there will be a denial to justice to the party invoking such writ.

27. A bare perusal of the record reveals that the respondent college provided the petitioner with ample opportunities to submit the required indemnity bond as well as the succession certificate; however, the petitioner has wilfully abstained from doing the same.

28. Bearing in mind the current facts and scenarios, this Court is of the view that the respondent college has not acted beyond its statutory power by directing the petitioner to submit the indemnity bond and the succession certificate. It is evident that the petitioner has been unable to produce the required documents, as a result of which the dues of the deceased have not been released to the petitioner. Therefore, this court is of the view that the respondent college has not acted beyond its power by directing the petitioner to produce certain documents in order to claim the dues of the deceased.

29. Therefore, the action of the respondent college cannot stand in the scrutiny of law and the petitioner's case seems to be fairly covered by the letters dated 24th August 2022, and 24th August 2023, thereby, not warranting this Court's intervention.

30. In view of the discussions in the foregoing paragraphs, this Court does not find any substantial reasons to allow the prayer as made in the instant petition.

31. However, it is directed that the respondent college, on submission of the succession certificate by the petitioner and as required by the respondent college, shall release the retirement dues of the husband in favour of the petitioner expeditiously and without any unnecessary delay.

32. Accordingly, the present petition is disposed of in light of the above terms.

33. Pending applications, if any, also stand disposed of.

34. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

SEPTEMBER 18, 2023
pa/ds/ryp

Click here to check corrigendum, if any