

14-03-2024
ct no. 13
Sl. 20
pk

WPA 15155 of 2023

Smt. Anita Das
-Versus-
The Union of India & Ors.

Mr. Sambhunath De,
Mr. Ranjit Kumar Ghosh
...for the petitioner

Mr. Anup Kanti Poddar,
Ms. Khusboo Ruia,
Ms. Gargi Mukhopadhyay
...for the respondent nos. 2 and 5 to 9.

Mr. Satyendra Agarwal,
Mr. Bijoy Bag,
Mr. Gautam Malik
... for the respondent nos. 11 to 13.

1. Mr. De, learned counsel for the petitioner has made extensive submissions in support of his prayer that the provident fund accumulation to the extent of Rs.14,60,518/- lying with the P. F. Authorities should be made over to his client.
2. Admittedly his client is the wife (albeit estranged) of the deceased, Ratan Das, despite whereof, his client has not been paid any share of the other terminal dues of the deceased employee, namely, Gratuity, G.I.C., P.F. and other allied benefits. However no nomination document executed by the deceased with his employer has been produced before this Court to establish such right.

3. What is undisputed and admitted by the employer AAI is that the deceased had filed a modified nomination form before his death naming his two sons and his own mother (excluding the petitioner) as the beneficiaries of his terminal dues.
4. In addition thereto, the deceased had executed a registered will at Ranchi in Jharkhand. In the said will it is mentioned that the petitioner was the estranged wife with whom the deceased has no relations since 1999 until his death. Admittedly, the wife/petitioner went to live with her mother since 1999.
5. Mr. De, learned advocate for the petitioner would next argue that the employer could not have disbursed any sum of money to the two sons without notice to the petitioner. At the time of considering her claim for pension, due notice was given to the sons as well as the petitioner. The employer, therefore, acted arbitrarily in not notifying the petitioner while disbursing the terminal dues to the sons.
6. The AAI in reply thereto submits that the payment to the sons was made on the basis of a modified letter of nomination and a registered will which was left by the deceased with the employer. This is confirmed in the affidavit in opposition filed by the employer in the earlier writ petition being WPA

10152 of 2017. It is pursuant to interim orders passed in the said writ petition that the balance sum of Rs.14,60,518/- was not disbursed to any of the sons or the petitioner. Further, it is pursuant to an interim order in the said earlier writ petition that the petitioner has been getting pension under the EPF Scheme.

7. Having heard the counsel for the parties, this Court is of the view that rival entitlements of the petitioner and the two sons on the PF amount of Rs.14,60,518/- is not the only demand of the petitioner in this proceeding. She also claims a proportionate share in the other terminal benefits given exclusively to the sons. There is also a question of the legality and enforcement of a will and testament of the deceased.
8. Admittedly, the said sum of Rs.14,60,518/- is lying with the PF Authorities and is bearing interest.
9. This Court could have considered handing over of PF amounts to the petitioner on the ground that the two sons are not represented before this Court despite specific notices issued by the employer AAI. Notices are taken on record.
10. It is submitted by the parties that despite appearance in the earlier writ petition being WPA 10152 of 2017 the respondents/sons were not

represented at the time of further hearing and final disposal.

11. In the backdrop of the above the disputed questions of facts that arise are as follows :

(a) As to whether there was any original nomination in favour of the petitioner made by the deceased with the employer?

(b) As to whether a subsequent nomination modifying the alleged earlier nomination is valid in law and could have been relied upon by the employer to pay terminal dues of the deceased or any part or portion thereof excluding the petitioner to the two sons?

(c) As to whether the will-in-question is a valid document enforceable by the beneficiaries?

12. The above disputed questions of facts cannot be decided in a writ petition.

13. In those circumstances, the instant writ petition is disposed of granting liberty to the petitioner and/or the legal heirs of the deceased Ratan Das to approach before the Civil Court or other appropriate forum to seek relief and remedy against the service benefits of the deceased Ratan Das. The PF of the deceased lying with the authorities will abide by the result of such proceedings.

14. This Court finds some infirmity in pension being allowed to the petitioner (albeit a paltry amount under the EPF Scheme) at an interim stage in the earlier writ petition. It is ordered that the same may continue to be received by the petitioner subject to the result of any civil proceeding that the parties may take out in accordance with law.
15. All questions on mutual rights and obligations are left to be determined by the said forum.
16. There will be no order as to costs.
17. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)