



2024:DHC:4377



\$~73

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

% Judgment delivered on: 20.05.2024

+ W.P.(C) 7277/2024

MS. ADIB FATEMA NOMANI

..... Petitioner

versus

UNION OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Rakesh Sherawat and Mr. Gaurav Kumar, Advocates.

For the Respondents : Mr. Ram Kumar, SPC with Mr. Arnab Mittal, Advocate for UOI
Mrs. Avnish Ahlawat, Standing Counsel with Ms. Tania Ahlawat, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates for Delhi Police

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CM APPL. 30413/2024**

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

**W.P.(C) 7277/2024**

3. This is a writ petition under Article 226 of the Constitution of India, 1950, seeking inter alia the following reliefs:-

“It is therefore most respectfully prayed that in the facts and circumstances mentioned herein above, the Hon'ble court may kindly be pleased to pass an appropriate writ, order or suitable direction to the respondent no. 1 to 4, to release the leave encashment salary of Late Mohd. Nairn Siddiqui in favor of the present petitioner along with interest. The Hon 'ble Court may further be pleased to pass any relief or order, which under the circumstances of the petition, may also be awarded in favor of petitioner and against the respondents with cost of the petition.”

4. Learned counsel appearing for the petitioner submits that the death of the husband of the petitioner occurred on 04.12.2020. Subsequent thereto, the petitioner has been waiting for the terminal benefits of the husband from the respondent no.2. Learned counsel very fairly submits that apart from the petitioner, there are four more legal heirs of the deceased husband, who are the children from the first wife. He submits that the petitioner is entitled to Leave Encashment, being the widow of her late husband, as per Rule 39C of the CCS (Leave) Rules, 1972.

5. He submits that in the suit which was pending before the learned Trial Court regarding issuance of Succession Certificate, the petitioner had filed an application under Section 151 CPC seeking liberty to approach the authorities only in respect of her entitlement to Leave Encashment. By order dated 07.03.2024, the learned Trial Court in Succession Case No.12/2021 had allowed the application and permitted the petitioner to approach the respondents. It is submitted by the learned



2024:DHC:4377



counsel that a representation dated 07.03.2024 was submitted on the same date with the respondent authority. He submits that despite the submission of the representation dated 07.03.2024, the respondent has only been corresponding with various Departments however, no concrete action has been taken yet.

6. Ms. Kaushik, learned counsel appearing for respondent no.3 submits that the statement made by the learned counsel for the petitioner is not entirely correct. She submits that in fact, the said issue regarding the terminal benefits including the Leave Encashment has been pending since the year 2021 and has been considered by various senior officers at different points of time. She submits that keeping in view the fact that there are more dependents who claim entitlement other than the petitioner, the senior officers had sought legal opinion from the appropriate authority. She submits that the same took time.

7. Be that as it may, in case the petitioner is entitled to the benefits as applicable under Rule 39C of the CCS (Leave) Rules, 1972, there is no reason why the representation of the petitioner cannot be decided. The only consideration by the respondent would be to ascertain as to whether she is the only widow, apart from ascertaining whether the conditions stipulated in Rule 39C are fulfilled.

8. In that view of the matter, it is directed that the respondents shall decide the representation of the petitioner filed on 07.03.2024 within a period of four weeks from today.

9. The petitioner may also be given an opportunity of hearing to address her grievances before the Competent Authority. The Competent Authority shall intimate the date, time and venue of such hearing well in



2024:DHC:4377



advance to the petitioner.

10. A speaking order shall be passed by the Competent Authority. It goes without saying that the copy of the order so passed shall be furnished to the petitioner within a period of one week of such decision.

11. The writ petition is disposed of with aforesaid directions, with no order as to costs.

TUSHAR RAO GEDELA, J.

MAY 20, 2024

ns