

(2023) 03 SHI CK 0013

In the High Court Of Himachal Pradesh

Case No : ??Civil Writ Petition No.2764 Of 2022

Bhagmanti Devi

APPELLANT

Vs

Regional Manager, National Insurance Company Ltd. & Others

RESPONDENT

Date of Decision : 03-03-2023

Acts Referred:

Citation : (2023) 03 SHI CK 0013

Hon'ble Judges : Sabina, J; Satyen Vaidya, J

Bench : Division Bench

Advocate : A. K. Gupta, Ashwani K. Sharma, Ishan Sharma

Final Decision : Disposed Of

Judgement

Satyen Vaidya, J

1. By way of instant petition, petitioner has prayed for the following substantive relief:-

"That the respondents may be ordered to release due and admissible amount to the petitioner after the death of her late husband, with immediate effect with interest at the rate of 12% per annum thereon."

2. Petitioner has sought above noted relief on the ground that she was legally wedded wife of late Sh. Vidya Lal Negi, who had died in harness on 26.3.2018, while serving at Rampur Branch of National Insurance Company Limited, as an Assistant. The grievance of the petitioner is that various dues accrued to her after the death of her husband Sh. Vidya Lal Negi, she has not been paid her dues despite her repeated requests to the respondents. In support of her contention, petitioner has placed on record a copy of legal heir certificate Annexure P-1, issued by Naib Tehsildar, Tehsil Sangla, District Kinnaur, H.P.

3. Respondents have contested the claim of the petitioner. It is submitted that the following terminal benefits are admissible in respect of death of an employee of National Insurance Company Limited, in case of death in harness:-

- i) Family Pension,
- ii) Group Term Insurance Scheme (GTIS) claim,
- iii) PF settlement,
- iv) Gratuity,
- v) Leave encashment,
- vi) Benefits under Group Savings Linked Insurance Scheme (GS LIP),
- vii) Group Insurance Scheme (GIS),
- viii) Supplementary Death Relief Scheme – National Mutual Benefit Society (SDRS-NMBS),
- ix) Compassionate appointment to the family member of deceased.”

4. As per respondents, petitioner has already been paid a sum of Rs. 16,36,451/- towards payment of terminal benefits under following heads:-

- “i) PF settlement,
- ii) Benefits under Group Savings Linked Insurance Scheme (GS LIP)
- iii) Group Insurance Scheme (GIS),

The above mentioned benefits are stated to have been released in favour of petitioner as she was mentioned as nominee for all such payments by late Sh. Vidya Lal Negi.

5. As regards the benefits mentioned at Sr. No. (ii) Group Term Insurance Scheme (GTIS) Claim and Sr. No. (viii) Supplementary Death Relief Scheme – National Mutual Benefit Society (SDRS-NMBS), it has been stated that the same were not admissible to the family of Sh. Vidya Lal Negi, since both the above mentioned schemes were optional and the deceased employee had not subscribed to either of them.

6. Regarding the claims at Sr. No. (i) Family Pension, Sr. No. (iv) Gratuity, Sr. No. (v) Leave Encashment and Sr. No. (ix) Compassionate appointment to the family member of deceased, the case of respondents is that Sh. Vidya Lal Negi had joined the service on 31.3.1992 and on 4.2.1993, he had submitted the requisite form in respect of Employees Gratuity Fund, in which he had specifically mentioned the name of Smt. Sharda Devi as his wife and the nominee to receive the amount of gratuity fund due to him, at the time of his death. On such basis, the respondents have withheld the aforesaid benefits to the petitioner and have raised the plea that since the status of Smt. Sharda Devi is not known and petitioner has failed to produce the Succession Certificate, issued by competent Court of law, she was not entitled to the remaining aforesaid terminal benefits.

7. We have heard the learned counsel for the parties and have also gone through

the record carefully.

8. Mr. Ashwani Kumar Sharma, learned Senior counsel representing the respondents has submitted at the outset that petitioner is not entitled for any relief as she had failed to disclose material fact in the petition. A sum of Rs. 16,36,451/- already stood released to her before filing of petition, but she intentionally and willfully suppressed such material fact.

9. No doubt, in the petition, petitioner has not disclosed aforesaid fact. The petition is otherwise cryptic and vague. Even, while framing the relief clause, it has not been clearly mentioned as to what is the exact entitlement of petitioner, in respect of which relief has been sought. However, we are of the considered view that petitioner should not be made to suffer for fault in pleadings, keeping in view the fact that the claim and relief sought by petitioner is in respect of the terminal benefits of her deceased husband, in absence of which, she may have been put to sufferings.

10. The contest to the claim of petitioner by the respondents as regards the status of petitioner to be the wife of deceased Vidya Lal Negi is without legal basis and hence cannot be countenanced. Respondents have not denied the authenticity or genuineness of legal heir certificate produced by petitioner. A copy of such certificate has been placed on record as Annexure P-1 and from its perusal, it is revealed that the certificate has been issued by the competent authority on the basis of entry in the Pariwar Register as also the reports of Patwari of the area and President of concerned Gram Panchayat. That being so, the suspicion entertained by respondents regarding the status of petitioner as wife of late Vidya Lal Negi at the time of his death is unwarranted. Noticeably, none other including Smt. Sharda Devi has come forward after the death of Sh. Vidya Lal Negi to claim either inheritance to his estate or the terminal benefits. No such claim has ever been raised before the respondents.

11. In the aforesaid circumstances, the respondents are not legally justified to deny the entitlement of petitioner, at least, to the family pension. As per Clauses 38 and 39 of General Insurance (Employees) Pension Scheme 1995, the widow/widower has the first right to family pension. Respondents have clearly faulted in denying the family pension to the petitioner merely on the basis of anticipated claim/dispute, if any, raised by Smt. Sharda Devi. In this view of the matter, it is also wrong on part of the respondents to impress upon the petitioner to produce the Succession Certificate as a pre-condition. Needless to say, respondents with a purpose to safeguard their interest can always seek indemnification from petitioner. The respondents have already paid a sum of Rs. 16,36,451/- to the petitioner on the basis of her alleged nomination for such terminal benefits by late Sh. Vidya Lal Negi. Respondents have not placed on record the nomination form from which it could be verified as to in what capacity Sh. Vidya Lal Negi had nominated the petitioner. This observation has been made only to test the genuineness of the defence put forth on behalf of the respondents in respect of relation of petitioner vis-à-vis late Sh. Vidya Lal Negi.

12. The disbursement of amount of gratuity has rightly been denied to the petitioner by the respondents on the ground that Smt. Sharda Devi was the nominee to receive such benefit. Even otherwise, as per the legal heir certificate Annexure P-1, deceased Vidya Lal Negi had two sons, three daughters and mother as his legal heirs besides petitioner. The gratuity, in absence of nomination was payable to all legal heirs. Same would also be the position in respect of the amount of leave encashment, if any. Thus, it will be open for the rightful legal heirs of late Sh. Vidya Lal Negi to put forth their claims to the amount(s), if any, of gratuity and leave encashment.

13. In light of above discussion, the petition is partly allowed to the extent that petitioner is entitled to the benefit of family pension after death of Sh. Vidya Lal Negi. Therefore, the respondents are directed to release such benefit in favour of the petitioner forthwith subject, however, to the condition that the respondents shall be at liberty to insist for indemnification from petitioner as a pre-condition for release of the benefit of family pension in her favour.

14. The petition is accordingly disposed of. There is no order as to costs. Pending applications, if any, also stand disposed of.