
(2005) 06 JH CK 0045

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3601 of 2004

Sadhana Agrawal

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-06-2005

Acts Referred:

Citation : (2005) 107 FLR 217 : (2005) 3 JCR 517

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Subha Jha, for the Appellant; J.P. Gupta, A.S.G., for the Respondent

Judgement

N.N. Tiwari, J.—In this writ application the petitioner has prayed for quashing the letter No. RDOT/8-3/AK-210/59, dated 30th April, 2003 as contained in Annexure-6 whereby the respondent No. 5 has asked the petitioner and other claimants to obtain succession certificate for payment of D.C.R.G./C.G.E.G.I.S.-80/Leave Encashment and Family Pension stating that the payment will be made as soon as the succession certificate along with claims are received in the office. The petitioner has also prayed for quashing the letter No. RDOT/8-3/AK-210/69, dated 16th June, 2003 reminding the petitioner for submission of succession certificate in order to enable the office to settle the claims. The petitioner has further prayed for a direction to the respondents to pay the entire death-cum-retiral benefits to the petitioner with interest and a direction to produce the original nomination papers and service record/book kept in the custody of the Head of the Department.

2. The petitioner's case is that her husband was the G.M.T.D., B.S.N.L., Sri Ganganagar (Rajasthan). He died in harness on 20.9.2002. The petitioner being the widow and the first successor of the deceased filed pension papers for payment of death-cum- retiral benefits/dues including family pension, D.C.R.G./C.G.E.G. I.S./Leave Encashment etc. by her letter dated 1.11.2002. The respondents thereafter made several queries and asked for various documents/certificates/affidavits which were submitted by the petitioner. In the meanwhile

the petitioner's married daughter Suchima Garg intervened and claimed for the entire dues as a nominee of Late Awadhesh Kumar, the deceased husband of the petitioner. The petitioner raised strong objections stating that she being the wife, she was the original nominee and at no point of time any change was made in the nominees' name by her deceased husband and that Suchima Garg is a married daughter and she has no right to receive the amounts of provident fund, gratuity, group insurance or any other dues. The Department, however, entertained the said claim and objection and the impugned letters dated 30.4.2003 and dated 16th June, 2003 were issued whereby, the petitioner and her "married daughter Suchima Garg and major son Aman Jindal had been asked to obtain succession certificate and submit the same for payment of retiral benefits including the family pension. It has been stated that the petitioner's son Aman Jindal has never raised any claim for any such payment, but said Suchima Garg who is a married daughter, she has unnecessarily intervened without any legal right whatsoever and only due to her intervention, the said impugned order has been illegally issued asking the petitioner and others to submit succession certificate for making payment on the basis thereof. Aggrieved by the said letters, the petitioner moved before the Central Administrative Tribunal, Circuit Bench, Ranchi in O.A. No. 146 of 2003. In the said O.A., notice was issued, but even after several dates, written statement was not filed by the concerned respondents and ultimately the same was admitted for hearing without waiting for written statement. In the said case Suchima Garg appeared and filed a petition for stay of the proceedings on the ground that she has filed a petition before the District Judge, Delhi for grant of letter of administration on the deceased's Will being Case No. 146 of 2003. In the said case the respondent was restrained to make payment to any person. The petitioner also appeared in the case and filed objection, but the said Suchima Garg avoided the Court's proceedings with ulterior motive. Subsequently, the Tribunal held all the cases relating to the B.S.N.L. including the said case not maintainable in absence of appropriate notification for bringing them under the jurisdiction of Central Administrative Tribunal. Said case was disposed of as withdrawn. Hence, this writ application has been filed. It has been stated that the claim of said Suchima Garg is unfounded and illegal and has been made on the basis of forged and fabricated documents. She has not only claimed the entire death-cum-retiral benefits but has also claimed the family pension and compassionate appointment.

3. The respondents Union of India and others filed their counter-affidavit contesting the writ application and stating, inter alia, that Awadhesh Kumar, Ex-General Manager who died on 20.9.2002 and as per the family details furnished by him, he has left behind Smt. Sadhna Agrawal (wife), Smt. Yashwant Kumari (mother) and Shri Aman Jindal (son). He has nominated Smt. Suchima Agrawal (daughter) as nominee to receive all terminal benefits and in case of death of his -daughter, Smt. Suchima Agrawal nominated his son Amari Jindal to receive all the benefits. The said nominee Suchima Agrawal as well as the petitioner, both made their respective claims to receive the death-cum-retiral benefits of

Awadhesh Kumar, Ex-G.M. and thereby a dispute arose for receiving the retiral/terminal benefits and in the said circumstance, the respondents asked the petitioner and other concerned to obtain succession certificate from the competent authority and to submit the same so that the payments can be made accordingly. On the said grounds, the respondent has prayed for rejection of the writ application. The respondents have annexed the documents giving details of the family members as Annexure "A" wherein the names of the petitioner, her mother Yashwant Kumari and her son Aman Jindal have been mentioned. The respondents have also enclosed the nomination papers for death- cum- retirement benefits and gratuity in which the name of Suchima Agarwal (daughter) has been mentioned as nominee to get the payment in full and in case of her death, name of Aman Jindal has been given as alternate nominee.

4. When the case was taken up for hearing on 31.3.2005, the counsel for the respondents were given time to seek instructions as to what is the impediment in giving family pension to the petitioner who is admittedly the widow of the deceased Awadesh Kumar, Ex. G.M. By their supplementary affidavit, the respondents informed that the order for payment of provisional pension to the petitioner has been issued by the Assistant Director General (Pers-V), B.S.N.L. Pension Section, New Delhi vide Order No. 31-10/03-Pen (B), dated 21.4.2005. A photocopy of the said order has been also enclosed as Annexure "D".

5. In view of the said statement, the grievance of the petitioner regarding the claim of family pension has been redressed as the provisional family pension has been granted to her by the said order.

6. So far the dispute regarding the contesting claim of nomination is concerned, the same being a question of disputed fact, cannot be adjudicated upon and decided by the Court, in its writ jurisdiction.

7. In view of the respective claims made by the petitioner and said Suchima Garg @ Agarwal, the respondents have issued the said letter as contained in Annexure-6 and Annexure-6/1 asking the petitioner and other claimants to obtain the succession certificate from the competent Court of law so that payment can be made accordingly. In view of the said claim and counter-claim by the petitioner and Smt. Suchima Garg @ Agarwal, the dispute has to be decided by some competent authority as such there is absolutely no arbitrariness or illegality in issuing the said letters as contained in Annexure-6 and Annexure-6/1 by which the respondents have directed the claimant(s) to obtain succession certificate from the competent Court and produce the same for the payment of retiral benefits. However, since the respondents have now issued the order for payment of family pension in favour of the petitioner, the said letters as contained in Annexure-6 and Annexure-6/1 require no interference, but the same shall not be read to cover the family pension for any purpose. It is held that there is no illegality in the said letters so far the petitioner has been asked to produce succession certificate for payment of other dues (except the family pension which is held payable to the petitioner and for which the order has

already been issued by the respondents by Annexure D"). This writ application is accordingly disposed of with the said observations. There shall be no order as to costs.