
(2008) 12 AHC CK 0438
In the Allahabad High Court

Smt. Shakuntla Devi

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 16-12-2008

Acts Referred:

Citation : (2009) 1 AWC 925

Hon'ble Judges : S.U. Khan, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

S.U. Khan, J.—Heard learned Counsel for the petitioner, learned Counsel for the respondent No. 6 and learned Counsel for the Union of India and its authorities, respondent Nos. 1 to 4. (Impleadment application to implead respondent No. 6 was allowed through order dated 18.11.2004 but actual Impleadment has not been carried out in the writ petition. Office shall do the same before issuing certified copy of this order).

2. Late Rajendra Prasad Maurya was Lance Naik (L/Nk). He died-in-harness on 28.9.1991. Petitioner, being wife of late Sri R. P. Maurya was his nominee in his service records. However, it appears that late Sri R. P. Maurya had allegedly remarried with Smt. Neelam Devi, respondent No. 5, who is no more. Dispute arose regarding disbursement of retiral dues including pension. According to the petitioner, Captain, Record Officer on behalf of Officer-in-charge, Records wrote a letter on 8.7.1992 to the petitioner from Army Head Quarter, Secunderabad to the effect that on 12.6.1990 she had been divorced by late Sri R. P. Maurya in panchayat and Sri R. P. Maurya had remarried with Neelam Devi, respondent No. 5. Respondents No. 1 to 4 outrightly denied this fact in their counter-affidavit. Learned Counsel for the respondents No. 1 to 4 has reiterated the said stand and has completely disowned the said letter on behalf of the respondents No. 1 to 4. This writ petition is directed against the alleged order dated 8.7.1992.

3. The net result is that retiral dues including family pension etc., have not been

paid to any one. Now respondent No. 5 is no more. Even otherwise among Hindus divorce cannot be given in panchayat orally. Second marriage during subsistence of the first marriage is also not permissible.

4. In any case, respondents No. 1 to 4 have stated that petitioner Srimati Shakuntla Devi is the nominee, hence she deserves payment. However, if Court directs otherwise respondents No. 1 to 4 would be ready and willing to make payment of retiral dues accordingly.

5. In this writ petition, a compromise has been entered into in between petitioner, wife of late employee and respondent No. 6, mother of the late employee. Incidentally the names of both the ladies are same, i.e., Shakuntla Devi. Respondent No. 6 is Shakuntla Devi wife of Sri Dashrath Maurya. Compromise dated 11.12.2008 signed by both the parties and their learned Counsel has been filed on 12.12.2008. The said compromise is supported by affidavit of petitioner. According to the compromise, both the ladies agree to take 50% of all the retiral dues including pension, gratuity, Army Group Insurance (Death Benefits), Army Group Insurance (Maturity Benefits) and Armed Forces Personnel Provident Fund.

6. Nomination in service records is merely meant for payment of the amount to the nominee on behalf of all the legal representatives of the deceased employee. In fact all the legal representatives are entitled to the amount payable in respect of the deceased employee in accordance with relevant law of succession. This is the same principle, which applies to payment of life insurance amount. Supreme Court in Smt. Sarbati Devi and Another Vs. Smt. Usha Devi, has held that nominee in the life insurance policy is legally bound to disburse the amount received by him to the heirs of the deceased in accordance with their share under the law of succession applicable to them.

7. Accordingly, writ petition is disposed of in terms of the compromise. Respondents No. 1 to 4 are directed to pay all the dues payable due to death of late Sri R. P. Maurya consolidated as well as recurring to both the ladies in exactly equal share.

8. Office is directed to supply a copy of this order free of cost to Sri Ashok Singh (Chamber No. 13) learned Counsel for the respondents No. 1 to 4 within a week.