
(2019) 10 UK CK 0089

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 2371 Of 2017

Vidyawati

APPELLANT

Vs

Executive Engineer, Uttarakhand Power Corporation, & Ors

RESPONDENT

Date of Decision : 22-10-2019

Acts Referred:

Citation : (2019) 10 UK CK 0089

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : Nikhil Singhal, Dharmendra Barthwal, Anil Kumar Joshi

Final Decision : Disposed Of

Judgement

Lok Pal Singh, J

1. Petitioner has approached this Court seeking the following reliefs:-

i) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 17.07.2017 passed by respondent no.1 (annexure no.2 to the writ petition).

ii) Issue a writ, order or direction in the nature of mandamus directing/ commanding the respondent no.1 to release the entire dues as well as pension of Late Shri Gangaram @ Ganga Dutt in favour of the petitioner being the legally wedded wife of Late Shir Gangaram @ Ganga Dutt.

2. Brief facts of the case, as narrated in the writ petition, are that Late Shri Gangaram @ Ganga Dutt was appointed as Patrolman in the office of respondent no.1 Sub Division Chandighat Haridwar. He died in harness on 16.01.2016. Petitioner claimed herself to be legally wedded wife of Late Gangaram and applied for payment of entire dues and pension. In this regard, she made a representation on 26.07.2017 before the respondent no.1. On the other hand, respondent no.3 also claimed herself to be the legally wedded wife of Late Gangaram. A detailed enquiry was conducted by the Naib Tehsildar in the matter

who after conducting the enquiry submitted his report that the petitioner was married to the elder brother of Late Gangaram but after his death she got married to Late Gangaram and out of the said wedlock two daughters were born. However, later on, Late Gangaram also married to respondent no.3 and out of the said wedlock also two daughters and one son were born. The grievance of the petitioner is that the respondent no.1, without any authority of law and ignoring the report submitted by Tehsildar, vide order dated 17.07.2017, has directed the respondent no.2 to release the entire dues of Late Gangaram in favour of respondent no.3. It has been contended that the petitioner is the legally wedded wife of Late Gangaram and therefore she is entitled to receive payment of dues as well as all the pensionary benefits of Late Gangaram.

3. Respondent no.3 has filed her counter affidavit in the matter wherein she has denied the fact that the petitioner is legally wedded wife of Late Gangaram. She has stated that she is the legally wedded wife of Late Ganga Ram and that the petitioner was married to elder brother of Late Ganga Ram.

4. During the pendency of present writ petition, petitioner and respondent no.3 have entered into a compromise and as such a joint compromise application being CLMA No.14627 of 2019 have been filed on their behalf. Petitioner Smt. Vidyawati and respondent no.3 Smt. Champa Devi are present in person, duly identified by their counsel Mr. Nikhil Singh and Mr. A.K. Joshi. It is stated in the compromise application that the petitioner and respondent no.3 have entered into an amicable settlement and has decided to settle the dispute on the following terms and conditions:-

a. That the petitioner will be entitled for the family pension of the deceased Ganga Ram during her life time from the date of death of Late Sri Ganga Ram.

b. That the appointment under dying in harness rules will be given to the son of respondent no.3 and the petitioner and her legal heirs would have no objection in this regard and the petitioner will give all her assistance in the matter of appointment under dying in harness rules.

c. That the retrial dues like gratuity, leave encashment, provident fund and other dues, if any, shall be divided in equal portion between petitioner and respondent no.3.

d. That the entire immovable property of the deceased Late Ganga Ram will be equally divided between the petitioner and respondent no.3.

5. Learned counsel for respondent no.3 would submit that in view of the terms of the compromise the son of respondent no.3 may apply for appointment under the dying in harness rules.

6. Though no prayer has been made by the petitioner in the writ petition for seeking appointment under the dying in harness rules but as it has been agreed between the parties that petitioner will not raise any objection and will provide full assistance to the son of respondent no.3 in getting the appointment under

dying in harness rules, the son of respondent no.3 may apply for appointment on compassionate ground. If any such application is made for appointment under the dying in harness rules by the son of respondent no.3 before the respondent nos.1 and 2, respondent nos.1 and 2 shall decide the same in accordance with law, ignoring the objection raised by the petitioner in this regard, if any.

7. In view of the above, compromise application CLMA No.14627 of 2019 is allowed. Writ petition stands disposed of on the basis of compromise arrived at between the parties. Respondent nos.1 and 2 shall abide by the terms and conditions of the compromise and shall pay the amount to the petitioner and respondent no.3 as agreed between them.