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2025:AHC:193385

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 15526 of 2025

Shanti Devi @ Sukh Devi .....Petitioners(s)

Versus

State Of U.P. And 3 Others .....Respondents(s)

Counsel for Petitioners(s)	:	Sunil Kumar Srivastava, Vinod Kumar Srivastava
Counsel for Respondent(s)	:	C.S.C., Usha Kiran

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. The petitioner has preferred this writ petition for a direction upon the respondents to pass an order for payment of family pension and other retiral dues along with interest of her late husband Sita Ram.

2. Learned counsel for the petitioner submits that the petitioner's husband, Sita Ram, was appointed as a Class-IV employee on the post of Shramik in Kanpur Electricity Supply Company Ltd. (for short, "KESCo"). He died while in service on 13.06.2024, leaving behind the petitioner and four children, including three married daughters and one son, namely, Rahul. Thereafter, the petitioner made an application on 10.10.2024 before respondent no. 4 - Executive Engineer (HRM), KESCo, Kanpur claiming post retiral dues including GPF, Gratuity, Pension, ex-gratia compensation, link insurance, TSC and other arrears as well as benefits, on which respondent no. 4 sent a letter to the petitioner stating therein that in the nomination form name of the petitioner was mentioned as Sukh Devi, whereas in the documents submitted by her, name was mentioned as Shanti Devi, hence it was not possible for the respondents to release the payments as claimed.

3. Learned counsel for the petitioner submits that in fact name of the petitioner as Sukh Devi was entered by her husband at the time of making nomination, whereas for the correction of the name from Sukh Devi to Shanti Devi, an application was moved by petitioner’s husband on 30.10.2018. Said document has been brought on record as Annexure no. 5 (Page-27). As per the requirements, Form 'F' i.e. nomination for gratuity, had also been filled by petitioner’s husband mentioning Shanti Devi as his wife, which was appended along with the application dated 30.10.2018. In all other records as well, the petitioner's name has been mentioned as Shanti Devi.

4. Learned counsel for the petitioner further contends that the petitioner was not aware of the fact that nick name was entered by her husband in the nomination form, therefore, after demise of her husband, she moved an application along with other records as well as affidavit proving that Sukh Devi and Shanti Devi are one and the same person, on which nothing was done, hence, the present writ petition has been filed for a direction upon the respondents to pay family pension as well as other retiral dues along with interest to the petitioner as admissible after death of her husband.

5. To strengthen her claim, the petitioner has also placed the documents on record showing that her son - Rahul was appointed on compassionate ground. During said process also the records were verified and Shanti Devi was said to be mother of Rahul and wife of the deceased employee - Sita Ram. Said submission could not be disputed in the instructions as placed on record by learned counsel for respondent nos. 2 to 4, in the Court today. Learned counsel for the petitioner further contends that the petitioner is being asked to produce succession certificate in order to claim her benefits.

6. On the basis of instructions, which are placed on the record, Ms. Usha Kiran, learned counsel for respondent nos. 2 to 4, states that when the application was moved by the petitioner's husband in the year 2018, he was required to submit his PAN Card and Aadhaar Card to substantiate the fact that Shanti Devi was his wife. However, for changing the name in the

nomination form from Sukh Devi to Shanti Devi, no documents were provided by the employee Sita Ram, thus, nothing was done thereon.

7. I have heard learned counsel for the petitioner, learned Standing Counsel for the State, Ms. Usha Kiran, learned counsel for respondent nos. 2 to 4, and perused the record.

8. Admittedly, petitioner's husband, during his lifetime, had moved an application for correction of name in the service records along with Form 'F' (nomination for gratuity) mentioning petitioner's name as Shanti Devi and there is nothing on record to show that the petitioner's husband was put to notice to submit other documents like PAN Card and Aadhaar Card for verification of the aforesaid fact i.e. Shanti Devi and Sukh Devi are one and the same person, as being argued by learned counsel for respondent nos. 2 to 4. The contention of learned counsel for the petitioner that she is being asked to submit succession certificate is required to be considered in view of the settled proposition of law on the subject matter.

9. A Coordinate Bench of this Court in the case of **Rafat Naaz and another v. State of U.P. and 3 others**[1], has held that once there is a nomination in the service records of the deceased employee in favour of a person (as in the present case, his wife) then the employer/authority cannot withhold payment of the death-cum-retiral benefits on the ground that a succession certificate is not produced. Relevant paragraph of the said judgement reads thus:

> "**19.** In substance, a nomination in the service records and a succession certificate granted by the Court under Section 372 of the Indian Succession Act are at par; neither confers any beneficial interest upon the recipient of the proceeds. As already said, a person who asserts title or beneficial interest in moneys or movable property received by another under a succession certificate, or for that matter, a nomination can always institute a suit for declaration or other appropriate consequential relief in order to establish his beneficial interest or entitlement. At the same time, once there is a nomination left by the deceased in his service records in favour of a person, who is his wife, there is no reason for the respondents or any employer to withhold payment of the post retiral benefits in favour of the nominee in the service records. It is for the other person, not so nominated, to establish his/ her claim through suit."

10. In the case of **Pawan Kumar Masurkar v. The State of Madhya Pradesh through Secretary, Water Resource Department Vallabh**

1 Writ-A No. 6031 of 2024 : Nutral Citation No.- 2024:AHC:187677

Bhawan Bhopal (Madhya Pradesh) & 5 Others[2], the Madhya Pradesh High Court has dealt with the issue regarding issuance of succession certificate in favour heirs of deceased employee and its applicability as envisaged under sub-section (1) of Section 370 of the Indian Succession Act. It would be apt to reproduce Section 370(1), which provides thus:

> "**(1)** A succession certificate (hereinafter in this Part referred to as a certificate) shall not be granted under this Part with respect to any debt or security to which a right is required by Section 212 or Section 213 to be established by letters of administration or probate :
>
> Provided that nothing contained in this section shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Indian Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under this act."

11. In the case in hand, the core dispute remains whether the petitioner - Shanti Devi and Sukh Devi, as disclosed in nomination papers, wife of deceased employee, are one and the same person. Though, for the purposes of necessary correction of petitioner’s name in the relevant service records i.e. from Sukh Devi to Shanti Devi, her husband during his lifetime had moved an application on 30.10.2018, however, the respondent authority did not proceed thereupon. In the instructions as passed on to the Court, today, by learned counsel appearing for respondent nos. 2 to 4, the reason is being attributed upon the deceased employee, for the failure to proceed on the application dated 30.10.2018 that PAN Card and Aadhaar Card were not provided by the deceased employee for the said purpose, whereas no document or evidence has been brought on record to demonstrate that the deceased employee was ever asked to submit the copies of PAN Card and Aadhaar Card.

12. In view of abovementioned circumstances, this Court is of the opinion that once in the year 2018 itself as per the required provisions an application along with Form 'F' (nomination for gratuity) was placed mentioning petitioner's name as Shanti Devi and nothing has been brought on record to show that the petitioner's husband was put to notice to submit other documents like PAN Card and Aadhaar Card for verification of the aforesaid fact that Shanti Devi and Sukh Devi are one and the same person, the very

2 Writ Petition No. 12753 of 2011, Dated 28th February 2024

submission and contention being addressed on behalf of respondent nos. 2 to 4 is unsustainable.

13. For the inaction or failure on the part of respondent authority, an employee cannot be fastened with any liability to which he has no authority. As in the present case, it was incumbent upon the respondent authorities to ask for relevant documents like PAN Card and Aadhaar Card for the purposes of verification from petitioner's husband, immediately after submission of application dated 30.10.2018 for correction of his wife's name in the service records, if were required.

14. Such functioning of responsible authorities alike in the present case not only causes hardships and difficulties to the dependents of deceased employee who are in penury and pitiable condition but also becomes cause of a number of litigation which piles up cases before the Courts. Authorities concerned should proceed in such matters within due course of time in accordance with law. They are not expected to sit tight over the applications for years without passing any order with the assumption that infirmities will become set right without information to the concerned employee.

15. In view of the above, interest of justice requires that a direction be issued upon respondent no. 4 to consider the claim of the petitioner in accordance with law, keeping in mind the observations as made in the judgement in **Rafat Naaz (supra)**, in case the petitioner approaches along with relevant documents as placed in the writ petition, and pass appropriate orders for payment of post retiral benefits to the petitioner of her late husband after verifying that Smt. Shanti Devi and Smt. Sukh Devi are one and the same person, expeditiously, preferably within a period of one month from the date of production of a certified copy of this order. The writ petition is disposed of with the said directions.

16. No order as to costs.

(Mrs. Manju Rani Chauhan,J.)

November 3, 2025
DS

Digitally signed by :-
DIGAMBER SINGH
High Court of Judicature at Allahabad