

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

CWP No. 8340 of 2023

Date of decision : 28.3.2024.

Kiran Hans & another ...Petitioners.

Versus

Union of India & others ...Respondents

Coram:

The Hon'ble Mr. Justice Satyen Vaidya, Judge.

Whether approved for reporting?¹

For the petitioners : Mr. Dilip Sharma, Sr. Advocate
with Mr. Manish Sharma,
Advocate.

For the respondents : Mr. Nand Lal Thakur, Senior
Panel Counsel for respondents
No. 1 to 3.

Mr. Peeyush Verma, Advocate,
for respondent No.4.

Satyen Vaidya, Judge (Oral):

By way of the instant petition, the petitioner
has prayed for the following substantive reliefs:-

- “i) That the impugned order dated 9.10.2023, annexure P-7, may kindly be quashed and set aside.*
- ii) That the petitioners and respondent No.4 may be held entitled to amounts payable on account*

¹

Whether reporters of Local Papers may be allowed to see the judgment?

of Death-cum-Retirement Gratuity, General Provident Fund and CGEGIS to the extent of their share as per law of succession.

iii) That respondents may be directed to release the due and admissible pensionary and terminal benefits in favour of petitioners in a time bound manner.

iv) That the petitioners may be held entitled to interest at market rate on delayed payments.”

2. There is no denial to the fact that petitioners No. 1 and 2 are wife and daughter of late Sh. Vijay Kumar. There is also no dispute as to the status of respondent No.4 being mother of late Sh. Vijay Kumar. By virtue of their respective relationship with late Sh. Vijay Kumar, they are the legal heirs and entitled to the estate of deceased Vijay Kumar in accordance with law. The respective shares allottable to the petitioners and respondent No.4 out of the estate of late Sh. Vijay Kumar shall obviously to be as per mandate of law.

3. Respondents No. 1 to 3 being employer of deceased are under liability to disburse certain service benefits of deceased Vijay Kumar after his death. Respondents No. 1 to 3 were probably facing difficulty for

such disbursal on account of the reason that late Sh. Vijay Kumar had nominated respondent No.4 for the purpose of benefits under DCRG, GPF and CGEGIS. Now, respondent No.4 has fairly come up with stand that notwithstanding the nomination having been made in her favour by late Sh. Vijay Kumar, she does not dispute the right of petitioners in respect of service benefits, except pension. Even petitioners are not denying the right of respondent No.4 to share the service benefits of late Sh. Vijay Kumar except the pension, in accordance with law. Needless to say, the legal position is otherwise well settled that a nominee merely on the ground having been nominated as such does not acquire any exclusive rights over the estate of a deceased more particularly where it includes the service benefits. A reference in this regard can be made to 2009 (10) SCC 680, titled as Shipra Sengupta vs. Mridul Sengupta & others, paragraphs 17 and 18 whereof read as under:-

17. The controversy involved in the instant case is no longer res integra. The nominee is entitled to receive the same, but the amount so received is to

be distributed according to the law of succession.

18. In terms of the factual foundation laid in this case, the deceased died on 8.11.1990 leaving behind his mother and widow as his only heirs and legal representatives entitled to succeed. Therefore, on the day when the right of succession opened, the appellant, his widow became entitled to one half of the amount of the general provident fund, the other half going to the mother and on her death, the other surviving son getting the same.

18. In view of the clear legal position, it is made abundantly clear that the amount in any head can be received by the nominee, but the amount can be claimed by the heirs of the deceased in accordance with law of succession governing them. In other words, nomination does not confer any beneficial interest on the nominee. In the instant case amounts so received are to be distributed according to the Hindu Succession Act, 1956.”

4. Respondents No. 1 to 3 also cannot have any possible objection in light of the settled position of law for disbursal of the service benefits of deceased Vijay Kumar in accordance with law.

5. In light of above, this petition is disposed of by quashing Annexures P-7 and P-8. Respondents No. 1 to 3 are directed to immediately disburse all the service benefits of late Sh. Vijay Kumar to the petitioners and respondent No.4 as per their share and in accordance with law save and except the benefit of pension, which as per the rules shall be available to the wife only. It is clarified that the disbursement of amount shall also include the statutory interest, if any, available on any of the amount, so required to be disbursed. The entire exercise shall be done within six weeks from today. Pending applications, if any, also stand disposed of.

28th March, 2024
(kck)

(Satyen Vaidya)
Judge