

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This the 30th Day of August 2013)

Hon'ble Mr. Shashi Prakash- AM

Original Application No.213 of 2003
(U/S 19, Administrative Tribunal Act, 1985)

Km. Namita Saxena daughter of late Sri Ramesh Chandra Saxena,
Dependent sister and nominee of Late Rashmi Saxena (Bhatnagar)
r/o 33, Tashkant Marg, Civil Lines, Allahabad.

..... Applicant

By Advocate: Shri O.P. Khare

Versus

1. Comptroller and Auditor General of India, 10, Bahadurshah Zafar Marg, New Delhi.
2. Principal Accountant General Office of the Principal Accountant General (A&E) I, Allahabad.
3. Govind Prasad Bhatnagar, 2/1 Prayag Street Road, Allahabad.

..... Respondents

By Advocate: Shri R.K. Rai

ORDER

The present O.A. has been filed with the prayer to quash the order dated 10.12.2002 read with final order dated 30.01.2003 and direct the respondent No.2 to pay to the applicant the amount of

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General Provident Fund as well as deposit insurance along with interest @ 18% p.a. as per G.P.F. Rules, 1960.

2. The brief facts as per the O.A. is that late Smt. Rashmi Saxena (Bhatnagar) nominated her sister Smt. Namita Saxena (Applicant) to receive payment of the amount relating to G.P.F., C.G.E.I.S and death cum gratuity in the event of her death. Smt. Rashmi Saxena died on 22.1.1999 while serving on the post of Accountant under the respondent No.2. The mother of the applicant had died on 16.09.1998. On the related form sent to the applicant by respondent No.2, the applicant filled in the details and filed the same for making of payment due to her. It is alleged that the respondent No.2 while releasing the amount due on account of death cum gratuity and CGEIS, withheld the payment of amount under GPF fund in an arbitrary manner on the ground that the late Smt. Rashmi Saxena had not filled up the nomination form with regard to payment of GPF. It is averred in the O.A. that this form had been filled up by Smt. Rashmi Saxena and the same was witnessed by two witnesses and A/C No.CAU/6954 was allotted to her. It is also stated that late Smt. Rashmi Saxena had also informed the applicant that she had filled up the aforesaid form. Accordingly, the applicant was entitled to get the payment on account of GPF as well.

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3. Though, the applicant received the payment on account of CGEIS and Gratuity as she was not paid the GPF amount of the late Smt. Rashmi Saxena, she took up the matter with respondent No.2 by letter dated 19.12.2000 claiming that she should be paid the GPF amount based upon the accepted nomination in her favour. However, to her aforesaid claim there was no response from the side of the respondents. Thereafter, by letter dated 31.5.2001, a letter was issued by respondent No.2 to Shri Govind Prasad Bhatnagar husband of late Smt. Rashmi Saxena with reference to his claim for payment of GPF amount of his late wife Smt. Rashmi Saxena and informed him that in this regard a succession certificate of the deceased employee had been called for from another claimant to this, namely, Smt. Namita Saxena since 20.10.1999 which still awaited. Shri Bhatnagar was asked to submit a succession certificate in his favour at the earliest. It was further intimated that after consideration of the succession certificate of both the parties, the final decision would be taken in the matter. Subsequently, by letter dated 10.12.2002, the respondents wrote a letter to the applicant (impugned in the O.A.) informing that despite several opportunities given to her to furnish a legal heir certificate from a competent Court, the same has still not been received by them. It was also informed that Shri D.P. Bhatnagar, husband of late Smt. Rashmi Saxena had submitted a succession certificate issued by Janpad Court dated 11.10.2002 in

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his favour for payment of the GPF amount. In view of this fact, the applicant was given one month's time to file succession certificate on her behalf failing which the GPF amount was to be released in favour of Shri Bhatnagar. Again by a letter dated 31.1.2003, another letter with similar content was written to the applicant reiterating that if succession certificate is not submitted by her without further delay, the payment would be made to Shri Bhatnagar and this letter was to be treated as a last reminder.

4. It is the contention of the applicant that Smt. Rashmi Saxena had filled up the GPF Form and did not cancel or change her nomination to the aforesaid fund during her lifetime which was in favour of the applicant. She has contested the action of the respondent No.2 treating the husband of late Smt. Rashmi Saxena as subscriber family particularly in the context of the nomination form relating to GPF filled up by her sister which is a legal document and on the basis of which she is entitled to payment. Therefore, asking for succession certificate from her by the respondent No.2 is arbitrary and not as per the provisions of GPF Rules. Hence, this O.A.

5. In the Counter Affidavit, the respondents have based their case on the ground that while late Smt. Rashmi Saxena had filled up the nomination form in favour of the applicant with

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regard to payment of CGEIS and death cum gratuity, she did not fill in the nomination form in respect of payment of GPF as no document to this effect is available in the office of the respondent No.2. In absence of such a nomination form, the respondents had no option but to seek succession certificate from both contesting persons claiming the payment of the GPF amount, namely, the applicant and Shri Bhatnagar husband of late Smt. Rashmi Saxena. Non release of payment of the GPF was held up only on account of the dispute of succession. Subsequently, on production of the succession certificate by Shri Bhatnagar and failure on the part of the applicant despite repeated reminder to her to furnish such a document, payment of GPF was ultimately released in favour of late Rashmi Saxena's husband viz Shri Bhatnagar.

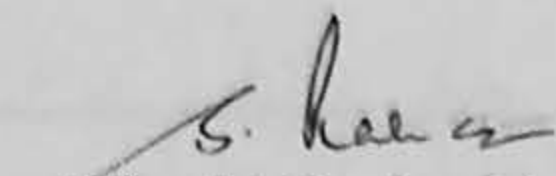
6. Heard counsel for both the parties the written statement. The main ground on which the applicant is seeking payment of the GPF of her late sister Smt. Rashmi Saxena is that her late sister had along with the nomination form for payment of death cum gratuity benefit and CGEIS had also filled up the nomination form for payment of GPF in her favour. She has strongly contended that this form is in the custody of the respondents who in connivance with Shri Bhatnagar, husband of her late sister are denying it's existence and thereby depriving her of her entitlement for payment of GPF. She has also contested the

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payment of the GPF amount in favour of Shri Bhatnagar on the basis of the succession certificate. She has contested the succession certificate which according to her, has been procured by concealment of facts and practicing fraud. According to her, the succession certificate submitted by Shri Bhatnagar is an invalid succession certificate which should not have been recognized by the respondents. It is observed that the ground taken by the applicant is on the basis of presumption on her part that the nomination form for payment of GPF in her favour had been filled up by her late sister. On the other hand, the respondents have stoutly denied that such a nomination form is available with them and in absence of such a nomination form, they are duty bound to determine the entitlement based upon the provisions relating to succession law. While, the applicant has been able to produce copy of the nomination form relating to CGEIS and death cum gratuity on the basis of which she has received payment in this behalf from the respondents, she has not been able to furnish any nomination form relating to payment of GPF. Her repeated assertion that the GPF form had been filled up by late Smt. Rashim Saxena cannot be established unless some direct or inferential/circumstantial evidences is produced by her to establish the same. In absence of such evidence, her claim loses force. Given the fact that there was no GPF nomination form, the applicant had written to both the contesting parties, namely, the applicant and the husband of late

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Smt. Rashmi Saxena to file succession certificate to claim the amount. Despite repeated opportunities given to the applicant to submit succession certificate, she continued to insist on the existence of the GPF nomination form in support of her claim and failed to file any succession certificate, while Shri Bhatnagar, husband of late Smt. Rashmi Saxena did obtain the required succession certificate with specific reference to payment of the GPF amount on account of his late wife from the competent court and submitted it to the respondents. On non-receipt of any succession certificate from the applicant despite several opportunities being provided to her, the respondents do not appear to have any option but to release the payment in favour of the husband of late Smt. Rashmi Saxena, who had produced certificate. So far as the allegation of the succession certificate produced by Shri Bhatnagar husband of late Smt. Rashmi Saxena being invalid is concerned, the applicant ought to have gone in appeal against the aforesaid succession certificate within the prescribed time and got the same set aside. As she had failed to take any action in this respect also, she does not have any claim to the GPF amount of her late sister Smt. Rashmi Saxena. Taking all the facts into account, I find the O.A. is devoid of merits and accordingly, dismissed. No costs.


(Shashi Prakash)
Member-A

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