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IN THE CENTRAL ADMINISTRATIVE, JODHPUR BENCH,
JODHPUR

Date of order : 6th January, 1998.

O.A. No. 299 of 1997.

Himmat Kumar S/o Shri Kishan Lal By Caste Bhand, R/o Sanjay Colony (B), Pratap Nagar, Jodhpur - Legal Heir of Kishan Lal who was Chowkidar in the office of the Commanding Officer, Headquarters South Western Air Command, Indian Air Force, Ratanada, Jodhpur.

... Applicant.

Vs.

1. Union of India through the Secretary to Defence Department, Secretariat, New Delhi
2. Commanding Officer, Headquarters South Western Air Command, Indian Air Force, Ratanada, Jodhpur.
3. Senior Accounts Office (Pensions), Headquarters South Western Air Command, Indian Air Force, Ratanada, Jodhpur

... Respondents.

...

Mr. R.R. Vyas, Counsel for the Applicant.
None present for the Respondents.

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CORAM :

HONOURABLE MR. A.K. MISRA, JUDICIAL MEMBER

HONOURABLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

...

PER HONOURABLE MR. A.K. MISRA :

The applicant has filed this O.A. with the prayer that the respondents may be directed to make payment of the gratuity amount of the applicant's father late Shri Kishan Lal, who was serving as Chowkidar in the office of the respondents with interest @ 18% p.a.

2. We have heard the learned counsel for the applicant. None has appeared on behalf of the respondents even in the second round. No reply on behalf of the respondents has also been filed.

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3. The applicant has contended that his father was serving as Chowkidar in the office of the respondent No. 2. He died on 17.06.1996. Applicant's mother had died on 15.2.1970. It is alleged by the applicant that after the death of his father, he had applied for payment of gratuity in respect of his father's service. The respondents vide their letter Annex.A/6 have indicated that a sum of Rs. 68,261/- on account of gratuity is payable to the applicant. But inspite of repeated visits to the office of the respondents, the respondents have not made payment of the aforesaid amount to the applicant and in these circumstances he made a prayer as indicated above. In spite of notices, nobody has entered appearance on behalf of the respondents.

4. We find that there is no document on record which may go to show that the applicant is a nominee in respect of getting the aforesaid amount of gratuity. From the copy of the affidavit filed by the applicant, it appears that the applicant Himmat Kumar is younger son of the late Shri Kishan Lal. There is no other claimant in the family except his elder brother Shri Kishore, as stated by the applicant. Annex.A/6 indicates that an amount of Rs. 68,261/- is payable on account of gratuity and on this basis it can be safely inferred that the survivors of late Shri Kishan Lal are entitled to the amount of gratuity. But in absence of any paper indicating the nomination of gratuity, it cannot be said as to who is entitled for the payment of gratuity. There may be dispute in this aspect in future between these two brothers. But this particular aspect cannot be given any cause to the respondents to refuse the

payment of gratuity. If they had some other reason for not paying the gratuity to the applicant, they should have definitely participated in the present application with their version. But in absence of their participation, we are left to infer that there is no dispute so far as the amount of gratuity is concerned. However, in order to avoid further litigation between two brothers, it would be advisable to inform the concerned department that in case the deceased had nominated some one or the applicant as rightful person for claiming the gratuity then the payment of gratuity should be made to him within a period of thirty days from the date of receipt of a copy of this order. If there is no nomination available in the official record, then the gratuity shall be payable to the one who ~~was~~ be presenting succession certificate to the department for claiming the gratuity.

5. With the observations made above, this application is disposed of. In the circumstances of the case, parties are left to bear their own costs.

(Gopal Singh)
(GOPAL SINGH)
Administrative Member

AM
(A.K.MISRA)
Judicial Member

M + R.

A letter recd
from HQ SWAC in
on 9/2/98 &
filed in third
set mt
11/2/98

filed
on 12/1/98

1. a file check
in third set
2. R-1 x 3

Part II and III destroyed
in my presence on 23-3-2003
under the supervision of
section officer () as per
order dated 22-12-2003

23/3/03
Section officer (Records)

Received by
Col. P. R. V.
10.1.98

Copy of order sent
to PEB 11-10-03
by Record AD
Recd No 11-10-03
Recd No 14/1/98
Alt
mt
14/1/98