

Court No. - 38

Case :- WRIT - A No. - 6333 of 2020

Petitioner :- Saroj Kumari

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Kamal Kumar Keshewani

Counsel for Respondent :- C.S.C., Chandan Agarwal

Hon'ble Pankaj Bhatia, J.

Heard counsel for the petitioner, Sri Chandan Agarwal, counsel for the respondent nos. 5, 6 and 7 and the Standing Counsel for the State-respondents.

The present petition has been filed seeking a direction upon the respondents to pay gratuity to the petitioner, which remained unpaid.

The contention of the counsel for the petitioner is that the husband of the petitioner was initially appointed as Assistant on 15.2.1996 and was promoted as Assistant Teacher on 27.6.2006, however he died in harness on 15.7.2017 before reaching the age of superannuation. The contention of the counsel for the petitioner is that in terms of the Government Order dated 23rd August, 2017, Clause 7(i), the petitioner is entitled to gratuity. The request of the petitioner has been rejected vide order dated 18.12.2019 solely on the ground that prior to the death of the husband of the petitioner, the option was not given and the date in the option is also not probably mentioned. Thus, the contention of the counsel for the petitioner is that even if the option given by the petitioner is not accepted, the admitted case is that the petitioner died in harness prior to the date of superannuation. He relies upon a judgment of this Court in ***Writ-A No. 17399 of 2019 (Usha Rani Vs. State of U.P. and Others)***, wherein the entire scope of the Government Order was considered.

Considering the fact that the issue is no more alive in view of the specific decision of this Court in Writ-A No. 17399 of 2019 that the gratuity would be payable to the employees, who died while in service and following the same it is clear that the petitioner would be entitled for release of the gratuity payable in terms of the Government Order dated 23rd August, 2017.

Accordingly, the writ petition is allowed following the judgment of this Court in the case of *Usha Rani (Supra)*. the petitioner shall be paid the gratuity to which the husband of the petitioner was entitled as expeditiously as possible, preferably within a period of three months from the date of filing of the application along with a copy of the order downloaded from the official website of this Court, which shall be treated as certified copy of this order.

Order Date :- 31.8.2020

SR