

**IN THE COURT THE OF SENIOR CIVIL JUDGE.,
BAILHONGAL.**

Dated this the 23rd Day of November 2021

PRESENT:

Smt. Usharani. R. *B.A.L., LL.M.,*
Senior Civil Judge,Bailhongal.

P &S C No.6/2021

1) Kumari. Pavana D/o Ashok Hanchinamani,
Age: 32 years, Occ: Student,
R/o: Janata Plot, Janata colony,
Giriyal K.A., Tq: Kittur, Dist: Belagavi.

2) Smt. Shivalingavva W/o Gangappa
Hanchinamani,
Age: 82 years, Occ: Household,
R/o: Janata Plot, Janata colony,
Giriyal K.A., Tq: Kittur, Dist: Belagavi.

.....Petitioners
(By Shri. B.C. Yaraganavi, Advocate)

- Vs. -

NIL

.....Respondent

JUDGMENT

This petition is filed under the provision of section 372 of the Indian Succession Act, 1975 for issuing succession certificate for receiving service benefits of the deceased Sri Ashok S/o Gangappa Hanchinamani.

2. The factual matrix of the petitioners' case are:

The father of petitioner No.1 and son of petitioner No.2 Sri. Ashok S/o Gangappa Hanchinamani was working in BSNL, Belagavi Division, Belagavi at Kittur as a telephone Mechanic and he died during his service on 19.11.2019 at SDM Hospital, Dharwad due to ill health.

3. It is further averred that, the General Manager, Telecom, Belagavi Telecom, Bharat Sanchar Nigam Main Telephone Exchange No.1, Belgavi are unnecessarily objecting for giving service death benefits and appointment of petitioner No.1 on Compassionate ground belongs

to deceased Ashok S/o Gangappa Hanchinamani. Thus the petitioners are seeking directions to issue Succession Certificate in their favor for claiming death benefits, compassionate ground appointment and other service benefits of father of petitioner No.1 and son of petitioner No.2.

4. It is further averred that, the deceased Sri Ashok Hanhinamani was permanent residing of Janata Plot Giriyal (KA) village of Kittur taluka of Belagavi District. The deceased was appointed a Telephone mechanic by BSNL, Belagavi Division and he served from 01.10.2000 to 19.11.2019 as a permanent employee and he died due to ill health on 19.11.2019 at Shri. Dharmastal Manjunath Medical College and Hospital, Sattur, Dharwad and he was drawing net salary of Rs.25,332/- per month from BSNL Office till his death. At the time of his death he was on medical leave and his wife Smt. Rajeshwari also pre-deceased on 21.07.1989. Hence the said employee died leaving behind him the petitioners are the only Class-I legal heirs of the deceased Ashok and no any other legal heirs

except these petitioners. The service benefits of the deceased after his death is DCRG (Approximate) including leave encashment and GPF (Approximate) and other death benefits is Rs.16,49,580/-.

5. It is further averred that, immediately after the death of Sri Ashok Hanchinamani the petitioners have approached the Tahasildar, Kittur to issue death certificate of deceased Ashok and after holding enquiry they have issued death certificate and survivor certificate on 04.12.2019 and then the petitioners have approached the Deputy General Manager ADM & CPIO BSNL, Belagavi by giving representation on 16.12.2019 by hand and subsequently sent through duly registered post on 25.02.2020 to give job opportunity on compassionate ground to petitioner No.1 and to release the entire service benefits of the deceased as per law. But till date the BSNL have not given any appointment to the petitioner No.1 and not at all paid death benefits of the deceased Ashok Hanchinamani to them.

6. Petitioner No.1 had filed Writ Petition before the Hon'ble High Court of Karnataka Dharwad Bench under WP No.100932/2020(GM). Accordingly the Hon'ble High Court directed the BNSL/respondent to consider the representation dated 24.02.2020 submitted by the petitioner and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of certified copy of this order. As per the directions of the Hon'ble High Court of Karnataka the BSNL have issued a letter to the petitioner No.1 Letter No.LC-1/WP-100932/2020/6 dated 16.05.2021 and subsequently letter dated 03.06.2021 to the petitioner No.1 to obtain Succession Certificate from the competent authority for release of death benefits as per Schedule-A of the deceased Ashok. Hence the petitioners have constrained to file the petition.

7. After institution of the petition, since respondents were shown as nil, notice was issued to the interested persons through paper publication in Vijayavani daily newspaper dated

23.09.2021. But in spite of service of public notice by publishing citation in the Vijayavani daily news paper, nobody appeared in response to the said public notice. Thus it appears that no one has objections to this petition.

8. In order to prove the claim, the petitioners have got examined petitioner No.1 as PW. 1 and relied upon 14 documents marked at Ex.P1 to P 14 and closed their side. There is no rebuttal evidence as there are no respondents.

9. The point that arise for my consideration and determination are as under;

1) Whether the petitioners are entitled to get succession certificate as prayed for?

2) What order?

10. I have heard Sri.J.N.C., the learned counsel for the petitioners. Perused the documents on record.

11. My finding to the above points are as under;

Point No.1 : In the Affirmative,

Point No.2 : As per the final order passed below for the following:

R E A S O N S

12. **Point No.1:-** PW.1 who is petitioner No.1 Kumari Pavana D/o Ashok Hanchinamani herein has reiterated the material petition averments in her evidence. The oral evidence of PW.1 indicates that, the deceased Ashok S/o Gangappa Hanchinamani had died on 19.11.2019 leaving behind the petitioners who are his Class-I legal heirs.

13. The deceased Ashok Hanhinamani was permanent residing of Janata Plot Giryai (KA) village of Kittur taluka of Belagavi District. The deceased was appointed a Telephone mechanic by BSNL, Belagavi Division and he served from 01.10.2000 to 19.11.2019 as a permanent employee and he died due to ill health on 19.11.2019 at Shri. Dharmastal Manjunath Medical

College and Hospital, Sattur, Dharwad and he was drawing net salary of Rs.25,332/- per month from BSNL Office till his death. At the time of his death he was on medical leave and his wife Smt. Rajeshwari also pre-deceased on 21.07.1989. Hence the said employee died leaving behind him the petitioners are the only Class-I legal heirs of the deceased Ashok and no any other legal heirs except these petitioners. The service benefits of the deceased after his death is DCRG (Approximate) including leave encashment and GPF (Approximate) and other death benefits is Rs.16,49,580/-. Immediately after the death of Ashok Hanchinamani the petitioners have approached the Tahasildar, Kittur to issue death certificate of deceased Ashok and after holding enquiry they have issued death certificate and survivor certificate on 04.12.2019.

14. The petitioners have approached the Deputy General Manager ADM & CPIO BSNL, Belagavi by giving representation on 16.12.2019 by hand and subsequently sent through duly

registered post on 25.02.2020 to give job opportunity on compassionate ground to petitioner No.1 and to release the entire service benefits of he deceased as per law, but till date the BSNL have not given any appointment to the petitioner No.1 and not at all paid death benefits of the deceased Ashok Hnchinamani to them.

15. The petitioner no 1 has produced Ex.P1 to P14. Ex.P 1 is the paper publication in Vijayavani daily news paper dated 23.09.2021 calling for objections from any interested person, Ex.P 2 is the letter addressed to the petitioner No.1 Kumari Pavana A. Hanchinamani by the BSNL Office, Belagavi regarding information sought under RTI Act, 2005. Details of death benefits are shown as Rs 16,49,580 and leave encashment as Rs 5,49,860, GPF as Rs 53,244/-. Ex.P 3 is the death certificate of Sri Ashok Shivalingavva Hanchinamani who died on 19.11.2019. Ex.P 4 is the death certificate of Smt. Rajeshwari Ashok Hanchinamani who died on 21.07.1989.

16. Ex.P 5 is the survivorship certificate of the deceased Ashok Gangappa Hanchinamani died on 19.11.2019 issued by Deputy Tahasildar, Kittur and it shows his legal heirs are the petitioner No.1 and 2 ie., Pavana Ashok Hanchinamani and Smt. Shivalingavva Gangappa Hanchinamani respectively.

17. Ex.P6 is the letter addressed to the petitioner No.1 from BSNL Office, Belagavi calling upon her to submit legal heir certificate from the appropriate authority. Ex.P7 is the letter addressed to the petitioner No.1 from BSNL Office, Belagavi seeking documents. Ex.P8 is the letter addressed to the petitioner No.1 from BSNL Officer, Belagavi pertaining to order in compliance of Judgment in WP No.100932/2021. Ex.P9 is the request letter addressed the General Manager, BSNL, Belagavi from petitioner No.1 pertaining to sanction of death benefits of her father Sri A.G. Hanchinamani.

18. Ex.P10 is the pay slip for the month of August-2018 in respect of the deceased Ashok

Hanchinamani. Ex.P11 is the pay slip for the month of September-2018 in respect of the deceased Ashok Hanchinamani which shows his gross salary as Rs 48,279/-. Ex.P12 is the copy of appointment order issued by the Govt. of India, Department of Telecommunications by intimating same to the Chairman and Managing Director, BSNL, New Delhi. It shows that the deceased was directed to be absorbed as employee. Ex.P13 and P14 are the copies of Aadhaar card of the petitioner Nos.1 and 2.

19. Thus it is apparent that, after obtaining the death certificate of deceased Sri Ashok S/o Gangappa Hanchinamani the petitioners had approached the concerned officials of the BSNL, Belagavi and requested them to give service benefits of the deceased to them by representation dated 16.12.2019. But the concerned officials of said BSNL, Belagavi have till date not paid the death benefits and directed the petitioners to obtain Succession Certificate from the competent court.

20. It is further clear that the petitioners are the only Class-I legal heirs and such the petitioners are entitled to succeed to the estate of the deceased. Hence, the petitioners have prayed to issue succession certificate as the successors of late Shri. Ashok S/o Gangappa Hanchinamani.

21. The evidence adduced on record clearly indicates that, the deceased Ashok S/o Gangappa Hanchinamani expired on 19.11.2019 leaving behind his daughter petitioner No.1 and his mother petitioner No.2. Thus, I am of the opinion that these petitioners are the legal heirs of deceased Ashok S/o Gangappa Hanchinamani and they are entitled for service benefits of the deceased. Accordingly, I answer point No.1 in the affirmative.

22. **Point No.2:-** In view of my finding given on point No.1 and for the reason discussed herein above paragraphs, I proceed to pass the following:

ORDER

The petition filed under section 372 of The Indian Succession Act, 1975 is hereby allowed.

Issue Succession certificate in favour of the petitioners who are legal representatives of deceased Sri Ashok S/o Gangappa Hanchinamani for receiving the service and other benefits from the BSNL under the seal of this court in the form set forth in Schedule-VI if necessary stamp duty is paid.

There is no order as to costs.

(Directly dictated to the stenographer on computer system and corrected by me, then pronounced in the Open Court on this the 23rd day of November 2021)

(Smt. Usharani. R)
Senior Civil Judge, Bailhongal

ANNEXURE

I. List of witness examined by the petitioners:

PW.1: Kumari Pavana D/o Ashok Hanchinamani

II. List of documents marked by the petitioners:

- Ex.P1 : Paper publication in Vijayavani daily news papers
Ex.P2 : Letter from BSNL
Ex.P3 & P4: Death certificates
Ex.P5 : Survivors certificate
Ex.P6 to P8: Letters from BSNL
Ex.P9 : Letter addressed to GM, BNSL, Belagavi from petitioner No.1
Ex.P10 & P11: Salary certificates of the deceased
Ex.P12 : Copy of appointment order
Ex.P13 & P14: Copies of Aadhaar card

III. List of witnesses examined / documents marked by the respondent:

- Nil -

(Smt. Usharani. R)
Senior Civil Judge, Bailhongal.