

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 20624/2017

Smt Sumat Pyari Jain Alias Sumati Jain

-----Petitioner

Versus

State of Rajasthan & Ors.

-----Respondents

For Petitioner(s)	:	Mr. RB Mathur Sr. Adv. assisted by Mr. Nikhil Simlote Mr. Salim Khan Ms. Gori Mr. Falak Mathur Mr. Manish Bhodiwal Mr. Yug Singh
For Respondent(s)	:	Mr. Akhil Simlote Mr. TP Sharma

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

16/05/2025

1. Heard respective counsels on the application (IA No.1/2025) filed by and on behalf of petitioner to release the amount of provident fund of her husband Late Shri. Ashok Kumar Jain.
2. It is not in dispute that the deceased-Ashok Kumar Jain was posted as Senior Scientific Officer at Rajasthan State Pollution Control Board, Jaipur and he passed away on 20.06.2016. Petitioner claims herself to be legally wedded wife of Ashok Kumar Jain after dissolution of his previous marriage with one Smt. Shanti Jain. Petitioner claims that she being legally wedded wife, is solely entitled to receive the provident fund of Ashok Kumar Jain as also other retiral benefits, however, the respondents, for want of submission of succession certificate, have withheld the PF and retiral benefits.

3. Counsel appearing on behalf of respondents submits that Mr. Anshu Jain son of deceased-Ashok Kumar Jain born out of his wedlock with Smt. Shanti Devi submitted objection before the respondents in writing not to release the PF and retiral benefits of Ashok Kumar Jain to his wife Smt. Sumat Pyari Jain (petitioner herein), hence then after such objection, respondents asked petitioner to furnish a succession certificate, issued by the competent Court in her favour.

4. Rule 35 (i)(b) of the Contributory Provident Fund Rules, 1962, reads as under:

"35. Procedure on death of a subscriber

Subject to deduction under Rule 36, on the death of a subscriber before the amount standing to his credit has become payable, or where the amount has become payable, before payment has been made:

(i) When the subscriber leaves a family-

(a)

(b) if no such nomination in favour of a member or members of the family, of the subscriber subsists, or if such nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or part thereof to which the nomination does not relate, as the case may be, shall, notwithstanding any nomination purporting to be in favour of any person or persons other than a member or members of his family, become payable to the members of his family in equal shares:

Provided that no share shall be payable to-

- (1) sons who have attained majority;
- (2) sons of a deceased son who have attained majority;
- (3) married daughters whose husbands are alive;
- (4) married daughters of a deceased son, whose husbands are alive;"

5. Counsel for petitioner submits that Mr. Anshu Jain, son of deceased born out of wedlock in the year 1986 from his ex-wife

Smt. Shanti Jain and had attained the age of majority at the time of death of Ashok Kumar Jain on 20.06.2016, hence as per Rule 35 referred hereinabove, he is not entitled to receive any share out of provident fund and retiral benefits.

6. Be that as it may, at this interim stage, this Court finds that petitioner is legally wedded wife of deceased-Ashok Kumar Jain. The quantum of provident fund so deposited with the respondents has been tentatively figured out to be near about 22 lakhs, apart from other retiral benefits.

7. Taking into consideration the old age of petitioner and the factum of suffering from sickness, this Court finds that as an interim relief at this stage, at least 50% PF amount so deposited with the respondents be disbursed/ released to the petitioner forthwith, subject to furnishing an indemnity bond by petitioner that, in case, finally on merits she is not found entitled to receive the same, she would refund such amount with interest @6%.

8. Counsel for petitioner undertake to implead Mr. Anshu Jain as party respondent in the writ petition. Let the amended cause title be filed in course of the day.

9. Let notices be issued to newly impleaded respondent.

10. Application (IA No.1/2025) stands disposed of accordingly.

(SUDESH BANSAL),J