

24.11.2024

1. Learned counsel for the petitioner present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Nabi Gul, Superintendent for the respondents present.

2. Respondents objected upon instant execution petition on the ground that Mst. Robina Shaheen died during pendency of execution petition, therefore, now legal heirs are not entitled to pursue service matter of their mother. Perusal of record reveals that service appeal was filed by the Mst. Robina Shaheen civil servant by herself which was decided in her life and she also filed execution/implementation petition in her life time but unfortunately during pendency of instant petition she died. It is also important to note here that this Tribunal vide judgment dated 20.06.2016 disposed of five others appeals alongwith appeal of the petitioner and other appellants were extended benefit of higher pay scale. Mst. Robina Shaheen was deprived from it, despite having decision of this Tribunal in her favour. So far as objection in respect of implementation of order by legal heirs is concerned, learned counsel relied upon judgment of apex court in accordance with which if execution pertain to financial/monetary benefits then in such a situation legal heirs can file and pursue said service matter/implementation petition of deceased civil servant.

3. So far other objection raised by the respondent about not appearing of Mst. Robina Shaheen before assessment committee framed in light of notification dated 26.07.1986 is concerned Mst. Robina Shaheen has rendered services as teacher in the institution of handicapped i.e blind, deaf, dumb and physically handicapped and mentally retired people for sufficient long period and had possessed

adequate knowledge. On record there is no mention of any sort of test or interview in the notification or in the letter of constitution of the committee but words mentioned is to judge adequate knowledge. Similarly, respondent had not produce any record of test/oral interview of other petitioners whose service appeals were decided alongwith Mst. Robina Shaheen on 20.10.2016 i.e Humaira Taimoor, Sher Zameen Khan, Zulfiqar Ali, M Ayaz and Tayyab Shah from which it can be established on record that appearance before committee constituted to judge adequate knowledge is not a formality through which every civil servant will have to go through by means of some sort of examination/test. It will also not out of place to mention here that when committee to judge the adequate knowledge for the respondents was challenged by some other teacher in writ petition No. 1854-p/2017 which was pending adjudication about two years during which Mst. Robina Shaheen unfortunately died. So delay was not attributed to Mst. Robina Shaheen if writ petition was not filed even then she will also appeared before the committee and will be granted higher pay scale like her other colleagues mentioned above. In my humble view, case of the present petitioners being legal heirs of deceased civil servant will have to be decided on sympathetic ground too. In view of above, objection raised by the respondents is hereby rejected. File to come up for implementation report on 01.02.2024 before S.B. P.P given to the parties.



Rashida Bano  
Member (J)