

JUDGMENT SHEET
IN THE LAHORE HIGH COURT, BAHAWALPUR BENCH,
BAHAWALPUR
JUDICIAL DEPARTMENT

Writ Petition No.6927 of 2021/BWP

Mst. Samina Zia

Versus

Federation of Pakistan & others

J U D G M E N T

Date of hearing: 05.12.2023.

Petitioner by: Mr. Amir Ajam Malik, Advocate.

Respondents by: Ms. Riffat Yasmeen, Assistant Attorney General along with Ulfat Ali, Town Inspector.

MUHAMMAD SAJID MEHMOOD SETHI, J.: Through instant petition, petitioner has sought direction for respondents to pay her the amounts present in the joint saving account No.SSA-1811 (opened on 20.04.2000), maintained by her along with her deceased husband namely Syed Mahmood Hussain with Pakistan Postal Services, General Post Office, Bahawalpur / respondent No.7, by calculating settled profit till to date.

2. Learned counsel for petitioner submits that petitioner's husband died on 16.01.2008 and she being a *Parda Nashin* lady did not visit the office of respondent No.7 to inquire about the situation of the joint account, however in order to cope up the expenses of her daughter's marriage, she approached said respondent but her request was declined on the ground that she is not entitled to get interest on the amounts deposited after the death of her husband. He adds that the Post Office Savings Account Rules, 1981 ("the Rules of 1981") do not provide any provision which may stipulate that no profit would be allowed on money deposited after death of one of the joint account holders, hence impugned inaction is unwarranted.

3. Contrarily, learned Assistant Attorney General submits that Note-2 of Rule 29 of the Post Office Savings Bank Rules provides that profit on the account of a deceased depositor ceases to accrue from the first day of the month in which notice is issued to the person or persons recognized by the Postmaster-General or the Head Postmaster (see rule 37) as entitled to receive the balance of the account and that no profit will be allowed on money deposited after his death in the account of a deceased depositor.

4. Arguments heard. Available record perused.

5. The admitted facts are that the account No.SSA-1811 was jointly opened by petitioner and her husband namely Syed Mahmood Hussain on 20.04.2000; that petitioner's husband died on 16.01.2008; that amounts were being deposited by petitioner in aforesaid joint account after the death of her husband; and that the amounts are lying with the Post Office. The point of controversy between the parties is whether mere death of one of the joint account holders (maintaining joint saving account with Pakistan Postal Services) can deprive the survivor from profits accrued on the amounts deposited in the joint account after his death especially when the amount in the joint account continues to lie and is being utilized by the Post Office.

6. After amendments brought in the Rules of 1981 by way of the Post Office Savings Account (Amendment) Rules, 2014, types of Savings Accounts have been provided in Rule 4 according to which types of Individual Accounts are: Single Account, Joint Account and Pension Account. Joint Account has further two types: A-Type, payable to the depositors jointly or to two survivors jointly or to the sole survivor. It is provided that such account may be operated by all the depositors or both the survivors or the sole survivor as the case may be; B-Type, payable to any one of the depositors or either of two survivors or to the sole survivor and such account can be operated by one of the depositors or either of the two survivors or the sole survivor as the case may be. In the

instant case, joint account was opened by two individuals and the survivor is one person, therefore, irrespective of the types of the joint account, sole survivor is entitled to retain and operate the account within the contemplation of Rule 4 *ibid*. Note 4 whereof is significantly to be visited which is reproduced hereunder: -

Note 4:- A joint account in the names of two adults may be opened in addition to a single account and pension account held by either or both of the depositors in the same or another Post Office Savings Bank. If one of the depositors dies, the joint account shall, as from the date of death of such depositor, be deemed to be a single account in the name of the surviving depositor, if he is already having a single account in his name in the same Post Office Savings Bank, one of the two accounts shall be closed.

(emphasis added)

Similar provision is also available in the Post Office Savings Account Scheme, 2019 (“**the Scheme of 2019**”) and its clause 3(2) provides that *the share of an individual in the balance in a joint account shall be in equal proportion. On the death of one of the account holder in a joint account, the surviving account holder shall be treated as the sole owner of the account and he may continue the account in accordance with the provisions of this Scheme provided another single account is not held in his name. In case a single account exists in the name of the surviving holder, the account shall have to be closed.*

It is clearly deducible that the joint account, even after death of one of the joint account holders, does not cease to exist rather remains operative to be maintained by the survivor(s) and no damage is caused to the amount available in the joint account or deposited in future.

7. Regarding interest on deposits in joint account, I am unable to see any specific provision in the Rules of 1981 and the Scheme of 2019 on the subject. However Rule 6 of the Rules of 1981 deals with interest on deposits in an account, Sub-Rule (8) whereof provides that *in the event of death of a depositor, the interest in his account shall be allowed only till the end of the month preceding*

the month in which notice is issued to the person or persons recognized by the Post Office Savings Bank as entitled to receive the balance in the said account. Likewise, Clause 5(5) of the Scheme of 2019 provides that in the event of death of an account holder, the interest in his account shall be paid only in the end of the month preceding month in which the account is closed.

It seems that these provisions are concerning the single account and do not say anything regarding joint account. It is not understandable that when amounts are with the Post Office how the interest on the same can be denied especially when the survivor is still alive, depositing the amount and operating the account.

8. So far as reference to Note 2 of Rule 29 of the Post Office Savings Bank Rules is concerned, the said provision says that profit on the account of a deceased depositor comes to an end with his death inasmuch as profit is not given on money deposited in the account of a deceased depositor after his death. Again this provision is not dealing with the situation arising in joint accounts and is concerning with the death of account holder of single account. *Ex facie* non-mentioning of situation of death of one of the account holders of joint accounts in the afore-referred provisions may not necessarily be construed a lacuna or gap in the legislation rather it is due to the fact that such situation does not affect the joint accounts qua its operation / running as well as interest on deposits in such accounts.

9. In view of the above, instant petition is allowed and respondents are directed to make calculation of interest on the deposits / amounts in the account in question and disburse the same to petitioner by following applicable procedure / policy / rules.

**(Muhammad Sajid Mehmood Sethi)
Judge**

APPROVED FOR REPORTING

Judge