

Serial No. 14
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 198 of 2020

Date of Decision: 20.04.2023

Smti Mebina Mary Wahlang & Anr. Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. S. Deb, Adv.

For the Respondent(s) : Mr. K.P. Bhattacharjee, GA (For R 1-6)
Mr. K. Kharmawphlang, Adv. (For R 7-9)
Mr. N. Syngkon, Adv. (For R 10)

i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

1. The writ petitioner is before this Court praying for directions to set aside the order dated 13.06.2014, whereby the pensionary benefits of

the deceased employee namely; one (Late) Moris Marngar has been released in favour of the respondent No. 10.

2. The pleaded case of the petitioner is that she is the legally wedded wife of the deceased employee, married on 19.01.1994 which is recorded by a marriage certificate dated 22.01.2011, issued by St. Peter the Apostle Church, and signed by a Parish Priest. It is the further case that the respondent No. 10, was never legally married to the deceased employee nor the petitioner ever divorced from the said employee. The prayer is therefore for directions to issue to the respondents, to pay the retirement benefits to the petitioner, and also to recover the amount that has already been drawn, from the respondent No. 10.

3. Mr. S. Deb, learned counsel for the petitioner has vehemently argued that there are no materials to substantiate the fact that the respondent No. 10, is the eldest surviving wife of the deceased employee, who has been granted the family pension under Rule 48 of the Meghalaya Civil Services Rules 1983, and that in spite of repeated representations, the respondents have not considered the case of the writ petitioner. He lastly submits that just on the basis of the nomination that appears in the service records, the respondents should not have released the said benefits.

4. Mr. N. Syngkon, learned counsel for the respondent No. 10 at the outset, has submitted that the petitioner has come before this Court and

raised disputed facts, as even the marriage certificate is yet to be proven as to its authenticity and no reliance be placed upon the same. He further submits that the deceased employee having nominated the respondent No. 10, there is no reason for the official respondents to disregard the entries made in the service book, and as such in accordance with law the retirement benefits have been released to the respondent No. 10.

5. Mr. K.P. Bhattacharjee, learned counsel for the respondents Nos. 1 to 6 concurs and support the submissions of the counsel for the respondent No. 10 and submits that as per records, it is the respondent No. 10 who is the rightful nominee to receive the retirement benefits.

6. Mr. K. Kharmawphlang, learned counsel for the respondent No. 7, 8 and 9 i.e. the Accountant General has drawn the attention of this Court to the Annexures I to V appended to the affidavit, and submits that as per due procedure and documents available, it is the respondent No. 10 who fulfills all the requirements, as such the pension was released to her.

7. Having heard the learned counsels for the parties, and as it appears from the materials available on record, this Court is not in a position to conclusively discern, as to whether the petitioner or the respondent No. 10 is the eldest surviving wife. Coupled with this, is the fact that in the service records of the deceased employee, the respondent No. 10 has been nominated to receive the terminal benefits. The respondents

therefore have proceeded on the basis of the materials which have created a right on behalf of the respondent No. 10, inasmuch as, the service book and the entries made therein is the only source of information in this case for employers to determine the rights of the legal heirs/nominees.

8. The writ petitioner having not been able to made out a case for any interference, the writ petition is accordingly dismissed.

9. However, it shall not be a bar for the petitioner to seek alternate civil remedy in accordance with law, if so advised.

Meghalaya
20.04.2023
"V. Lyndem-PS"



JUDGE