

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

WP(C) No. 297 of 2020

Jyoti Chetry

...Petitioner/s

Vs.

State of Manipur & ors.

...Respondent/s

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

12-01-2024

Heard Mr. H. Nabachandra, learned counsel appearing for the petitioner; Mr. Niranjana Sanasam, learned GA appearing for respondent Nos. 1, 2 & 3 and Mr. Kh. Binoy, learned counsel appearing for respondent No. 4.

[2] In the present writ petition, the petitioner is claiming that she is the first legally married wife of one (L) Akal Bahadur Chhetry who died while serving as Rifleman in the Manipur Police and as such, she is entitled to receive the death-cum-retirement benefit and pensionary benefit payable to the late Shri Akal Bahadur Chhetry, Rifleman No. 9296 of 2nd Bn. Manipur Rifles, Imphal. In order to support the claim of the petitioner a Decree dated 06-09-2013 passed by the Family Court, Manipur in Mat.(Maintenance) Case No. 23 of 2012 has been enclosed in the present writ petition except for the said Decree, no other document has been enclosed by the petitioner to support her claim that she is the first legally married wife of the said deceased rifleman.

[3] Mr. H. Nabachandra, learned counsel appearing for the petitioner strenuously submitted that under the Hindu Law, second

marriage is not permissible and that even though the respondent No. 4 claims to be the second wife of the said deceased rifleman, second wife is not entitled to any of the retirement or pensionary benefit of the deceased rifleman. The learned counsel further submitted that as the petitioner is the first legally married wife of the deceased rifleman, necessary direction be issued to the official respondent Nos. 1, 2 & 3 to release the death-cum-retirement benefits and pensionary benefits to the petitioner.

[4] The stand taken by the official respondents in their counter affidavit is that in the service book maintained by the Government in respect of the deceased rifleman, only the name of respondent No. 4 and her two children were shown as the family members of the deceased rifleman and that as the respondent No. 4 has also made claim for releasing retirement and pensionary benefits of the deceased rifleman, the authorities cannot proceed for payment of the retirement and pensionary benefit of the deceased rifleman to the petitioner or the respondent No. 4 and the matter is still pending.

[5] Mr. Niranjana Sanasam, learned GA appearing for the official respondents submitted that unless and until the issue as to which of the petitioner or the respondent No. 4 is the legally married wife of the deceased rifleman is established, the authorities are not in a position to release the said retirement or pensionary benefit of the deceased rifleman.

[6] Mr. Kh. Binoy, learned counsel appearing for the respondent No. 4 submitted that the petitioner is not legally married wife of the deceased rifleman and that there is no material available to prove that the petitioner is the legally married wife of the deceased rifleman. The learned counsel further submitted that the respondent No. 4 is the only legally married wife and out of their marriage two children were born and that respondent No. 4 and her two minor children are only entitled to the retirement and pensionary benefit of the deceased rifleman. It has further been submitted by the learned counsel for respondent No. 4 that the respondent No. 4 had already filed Declaratory Suit being Mat.(Declaratory) Case No. 6 of 2019 before the Family Court, Imphal East for declaration of the respondent No. 4 as the legally married wife of the deceased rifleman and the said Declaratory Suit is still pending.

[7] I have heard the submission advanced by the learned counsel appearing for the parties at length and also examined the materials available on record. In the present case, both the petitioner as well as the respondent No. 4 are claiming to be the legally married wife of the deceased rifleman and that there is a Matrimonial Declaratory Suit pending before the competent Family Court.

[8] This Court is of the considered view that on the basis of the limited materials available before this Court, this Court cannot decide the issue as to which of the two claimants is the legally married wife of the deceased rifleman, moreover, as there is already a Matrimonial Declaratory Suit pending before the competent Family Court, which will

decide the legal status of both the two claimants, this Court is not inclined to entertain the present writ petition.

[9] Accordingly, the present writ petition is hereby dismissed.

[10] However, it is made clear that dismissal of this writ petition will not bar the petitioner from filing any appropriate application before the competent authority for redressal of her grievance.

JUDGE

Dhakshori

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DHAKESH
ORI DEVI

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