

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.120 of 2023

Smt. Manju Rani Roy (Debnath), W/o Shri Usha Ranjan Debnath,
Reshambagan, Agartala, Indranagar, West Tripura, Tripura-799006

.....Appellant(s);

Versus

1. The State of Tripura (to be represented by the Secretary), Department of
Higher Education, Government of Tripura, Secretariat Building, New Capital
Complex, Agartala, West Tripura-799010

2. The Director, Directorate of Higher Education, Government of Tripura,
Secretariat Building, New Capital Complex, Agartala, West Tripura-799010

3. The Accountant General (Pension), Malancha Nibas, Agartala, P.O.-
Kunjaban, West Tripura, PIN-799006

4. The Principal, Government Degree College, Dharmanagar, P.O.-
Dharmanagar, North Tripura, PIN-799253

5. Smt. Aparna Debnath, C/o Sri Usha Ranjan Debnath, R/o- Village Algapur
Road, near 3rd No. Bridge, P.O.-Dharmanagar, P.S. Dharmanagar, North
Tripura-799250

.....Respondent(s).

For Appellant(s) : Mr. Samar Das, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, Deputy SGI,
Mr. Kohinoor N. Bhattacharyya, G.A.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Order

12/08/2024

Heard Mr. Samar Das, learned counsel for the appellant, Mr.
Bidyut Majumder, learned Deputy SGI for the respondent No.3-the Accountant
General (Pension) and Mr. Kohinoor N. Bhattacharyya, learned Government
Advocate for the respondents-State. Respondent No.6 originally and now
respondent No.5 Smt. Aparna Debnath has appeared on notice, but has not filed
any Counter Affidavit. The background of the case which has led to the filing
of the present appeal is indicated in the order dated 13.12.2023 which reads as
under:

“The writ petitioner is the appellant who claims to be the legally wedded
wife of respondent No.5 but was ousted from the matrimonial home way back on
06.03.1990. Thereafter, as per the appellant, respondent No.5 entered second

marriage illegally with one Aparna Debnath. Appellant successfully pursued a maintenance case under Section 125 of Cr.P.C. in which maintenance has been granted by the learned Family Court by order dated 17.05.2019 against the respondent No.5. Respondent No.5 superannuated on 29.02.2020. Petitioner requested for correction of the service book by incorporating her name in place of Aparna Debnath as this fact came to her notice upon information supplied under RTI. However, since the request was not heeded to, she approached the Writ Court.

Mr. Samar Das, learned counsel for the petitioner/appellant herein, submits that the Writ Court declined the relief treating it to be a matter of civil dispute. However, learned counsel for the petitioner/appellant submits that subsequent development has arisen after filing of the writ petition but could not be brought to the notice of the Writ Court regarding the outcome of the divorce proceeding. Respondent No.5 had instituted a Title Suit (Divorce) before the learned Family Court, West Tripura, Agartala bearing No. T.S.(Divorce) 327 of 2020 which was dismissed on 27.09.2023. Since this divorce suit by the respondent No.5 against the petitioner/appellant has been dismissed, the marital status of the appellant remains intact. As such, the service book of respondent No.5 ought to be corrected so that the petitioner is able to get the legally admissible dues on superannuation of her husband. He seeks time to bring on record this fact relating to the dismissal of the divorce suit. Let such affidavit be filed by Friday (15.12.2023).

The other lady Aparna Debnath also be added as party respondent during course of the day by learned counsel for the appellant.

Issue notice on the respondents No.5 and 6 under ordinary process and speed post, for which requisites be filed within one week.

Copy of the additional affidavit be also sent along with the notice.

Learned counsel for the State is allowed 3(three) weeks' time to obtain instruction in the matter since the writ petition was disposed of on the first date.

Let the matter be listed on **24.01.2024**."

Upon notice, the newly added party Smt. Aparna Debnath has appeared but it transpires that the respondent No.5, with whom the present appellant claims to be legally wedded as the first wife, died and therefore on the request of learned counsel for the appellant, his name was deleted from the array of parties by order dated 23.07.2024.

2. Now the situation as it stands that upon objection by the office of Accountant General as to the marital status of the present appellant, respondent No.2 is required to take a call taking into account the subsequent developments relating to the dismissal of the matrimonial suit i.e. T.S. (Divorce) 327/2020 on 27.09.2023. The original respondent No.5 i.e. the deceased had instituted a matrimonial suit before the learned Family Court, West Tripura, Agartala for divorce against the present appellant. If that be so, the deceased-employee has

acknowledged his marital status with the present appellant. The present appellant was also granted maintenance under Section 125 of the Cr.P.C vide order dated 17.05.2019 by the learned Family Court, West Tripura, Agartala against the respondent No.5. Respondent No.5 had superannuated on 29.02.2020. Thereafter the present appellant requested for correction of the service book by incorporating her name in place of the Aparna Debnath as this fact came to her notice only upon information supplied under RTI. The above facts, therefore, require a fresh decision on the claim of the present appellant by the respondent No.2 who is the competent authority.

3. As such, instead of entering further into the merits of the case of the parties at this stage, we deem it proper to direct the respondent No.2 to take a decision on the claim of the appellant in accordance with law after giving one opportunity to the respondent No.5-Aparna Debnath also to put her case by way of a representation. The present appellant is at liberty to file a fresh representation with all supporting facts and documents before respondent No.2 through proper channel within a period of 2(two) weeks from today. Respondent No.5 may also submit her objection/claim before respondent No.2 through proper channel within the same time. Let such decision be taken by respondent No.2 within a period of 8(eight) weeks from the date of receipt of copy of this order along with representation of the appellant. If the decision is in favour of the appellant, the same be communicated to respondent No.3-the Accountant General for issuance of pension papers in her favour. If the claim of the appellant or respondent No.5 is denied by virtue of a reasoned order to be

passed by respondent No.2, the aggrieved party may have liberty to approach in a fresh proceeding. With these directions, the instant appeal stands disposed of.

4. Pending application(s), if any, shall also stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ



Pijush/

MUNNA SAHA Digitally signed by MUNNA SAHA
Date: 2024.08.16 14:16:39 +05'30'