

11.12.2020
SL No.22
Court No.12
(gc)

**MAT 605 of 2020
With
CAN 1 of 2020
with
CAN 2 of 2020
with
CAN 3 of 2020**

**Chitra Joth
Vs.
The State of West Bengal & Ors.**

(Via Video Conference)

Mr. Sandip Ghosh,
Mr. Partha Sarkar,
...for the Appellant.
Mr. Biswabrata Basu Mallick,
Mr. Sanjib Das,
...for the State.

The appeal is at the instance of the widowed daughter of the deceased teacher against an order dated 1st October, 2019 passed by the learned Single Judge in a writ petition being W.P.14681(W) of 2019 filed by her challenging, inter alia, an order dated 16th November, 2018 passed by the District Inspector of Schools (Primary Education), Chinsurah (the respondent No.3). It appears from record as well as from the order impugned that the father of the writ petitioner/appellant, namely, Anil Kumar Majhi was an assistant teacher in a primary school who had retired on 30th July, 1993 and received pension till his death. After his death, the mother of the writ petitioner/appellant was granted family pension which was received till her death in the month of December, 2015.

The problem starts thereafter. The respondent No.3 contended before the learned Single Judge that the writ petitioner/appellant submitted a declaration and an affidavit relinquishing her right to receive the family pension in favour of her sister, namely, Malabika Pakira, who is also a widowed daughter of the deceased. On the basis of such documents, the right of the appellant to claim family pension was denied by the respondent No.3. The learned Counsel appearing for the petitioner submits that the said document is forged and in any event without the statutory requirement, the family pension cannot be denied to the widowed daughter. It is submitted that all other rights excepting fundamental rights can be waived. Whether the appellant had consciously executed the said document in favour of her widowed sister or the said document is forged, are disputed questions of fact and that cannot be conveniently dealt with in the writ jurisdiction.

Mr. Biswabrata Basu Mallick, learned Counsel appearing for the State shall supply Photostat copies of the documents alleged to have been executed by the appellant on 4th July, 2016 and 3rd August, 2016 to Mr. Sandip Ghosh, learned Counsel representing the appellant within a period of one week from date. In the event, a request is made for inspection of the original documents along with other pension papers, the respondent No.3 shall allow such inspection of the original papers.

Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge. However, we make it clear that the said observations either made by us or by the learned Single Judge shall not stand in the way of the appellant taking appropriate steps in accordance with law for adjudication of the said document and claiming her right on establishment of the said documents being forged.

The appeal and the connected applications are disposed of.

All parties are to act on a website copy of this order on the usual undertaking.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)