

10.12.2020
D/L No.06
Court No.25
s.biswas

WPA 8194 of 2020

Madhumati Mandal
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Haradhan Mondal
... .. for the petitioner
Mr. Bhaskar Prasad Vaisya
... .. for the State
Mr. Soumya Majumder
Mr. Madhusudan Roy
... .. for the respondent no.7

The present writ petition has been preferred primarily praying for the following relief:

“Writ in the nature of Mandamus commanding the respondents to cancel and/or rescind and/or withdraw the revised P.P.O. which was prepared modifying the original P.P.O. being No.BIR/s/s/6299 in connection with File No.SEC/BIR/0207/2002 and to keep the name of the petitioner as the family pensioner.”

Mr. Mondal, learned advocate appearing for the petitioner submits that the petitioner, namely, Madhumati Mandal (in short, Madhumati) married one Abanis Chandra Mandal (in short, Abanis), who was an Assistant Teacher of Khayerbuni Junior High School (in short the said school). During his service, Abanis exercised nomination in favour of Madhumati and on the basis thereof, Madhumati's name stood incorporated in the

Abanis's pension payment order issued on 28th January, 2003 as his wife under Clause "B. Family Pension". Abanis retired on 31st January, 2003 and expired thereafter on 11th February, 2018. Behind the back of Madhumati and without granting any opportunity of hearing, her name was struck out and the name of one Jyotsna Mandal (in short, Jyotsna) was incorporated in the records. Madhumati came to learn such fact upon availing documents furnished by the respondent no.4 in response to an application under the Right to Information Act. Aggrieved thereby, the petitioner submitted representations to the competent authority but the same were not considered.

According to Mr. Mondal, the State authorities were under an obligation to disburse family pension benefits in favour of Madhumati on the basis of the said pension payment order dated 28th January, 2003.

Per contra, Mr. Majumder, learned advocate appearing for Jyotsna submits that the writ petition has been preferred suppressing material facts. Abanis married Jyotsna and subsequent thereto, there was a matrimonial dispute and as such Jyotsna was compelled to prefer an application under Section 9 of the Hindu Marriage Act, 1955. The said restitution application was allowed by an order dated 18th February, 1969. Thereafter Abanis preferred a divorce suit against Jyotsna being MAT Suit No.29 of 1987 which was dismissed by a judgment dated

31st July, 1990. Jyotsna thereafter preferred a suit being Title Suit no.70 of 2002 for declaration and injunction. By a judgment dated 19th May, 2006 the said suit was allowed declaring Jyotsna as the nominee of Pension Fund Account, Death-cum-Retiring Gratuity Account, Provident Fund Account of Abanis. The defendants in the said suit were also permanently enjoined from recording the name of any person in the said records except the name of Jyotsna. On the basis of such declaration the respondent no.6 issued a letter to the respondent no.4 for incorporation of name of Jyotsna on 4th September, 2006. On 11th September, 2006, Abanis also wrote a letter to the respondent no.4 to note the name of Jyotsna as his nominee in the official records. Upon considering the same, a revised Pension Payment Order was issued on 5th July, 2007 incorporating the name of Jyotsna as the wife of Abanis in Clause "B. Family Pension". In support of such contention, Mr. Majumder has placed reliance upon a compilation affirmed by Jyotsna. A copy of the same has also been handed over to Mr. Mondal.

In reply, Mr. Mondal submits that the petitioner was not made a party in the civil proceedings and orders were obtained behind her back.

Mr. Vaisya, learned advocate, appears on behalf of the State respondents.

Under the Pension Scheme, an employee having a family can exercise nomination only in the name of a

member of such family and not an outsider. No document has been produced before this Court in support of the contention that Madhumati had a matrimonial relationship with Abanis. In view thereof, considering the complaint lodged by Madhumati, the respondent no.4 issued a letter dated 17th March, 2020 requesting Madhumati to produce legal documents in support of her claim but she failed. No document has been produced before this Court to show that Madhumati is the legally married wife of Abanis and that she comes under the definition of family in the Pension Scheme.

Indisputably, Jyotsna has been declared as the nominee of Pension Fund Account, Death-cum-Retiring Gratuity Account, Provident Fund Account of Abanis by the competent civil forum. Acting on the basis of such declaration, the State authorities have issued revised pension payment order incorporating the name of Jyotsna. In my opinion, there is no infirmity in such action of the State authorities.

For the reasons discussed above, this Court is unable to grant the relief, as prayed for by the petitioner and the writ petition is, accordingly, dismissed.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on completion of all necessary formalities.

(Tapabrata Chakraborty, J.)

