

09.12.2020
Item No.32
Daily List
Court No.25
Krishnendu

W.P.A. No. 9167 of 2020
(VIA VIDEO CONFERENCE)

In re: Namita Chakraborty (Maity)
- Versus-
The State of West Bengal & Ors

Mr. Ekramul Bari
Mr. Mansur Ali
Mrs. Tanuja Basak
For the Petitioner

Affidavit of service filed by the petitioner be
kept on record.

Records reveal that one Srikanta Maity (in short, Srikanta) who was an approved clerk of Harali High School approached this Court by a writ petition, being W.P. No. 10650 (W) of 2009 as regards disbursement of pensionary benefits. The same was disposed of by an order dated 9th September, 2009. In compliance of the directions contained in the same, the respondent no. 4 passed an order on 16th February, 2012. The petitioner herein, who claimed to be the wife of Srikanta was impleaded in the said writ petition. Upon hearing the parties, the respondent no. 4 directed the respondent no. 3 to release the retiral benefits of Srikanta and to rectify the name of the nominee of family pension in part D and other necessary papers. Srikanta thereafter retired in the

month of January, 2005 and Pension Payment Order was issued on 24th August, 2012. Srikanta subsequently expired on 18th April, 2015. A representation was thereafter submitted by the petitioner to the respondent no. 3 on 24th February, 2016 praying for disbursement of the family pension and other benefits.

Heard Mr. Ali, learned advocate appearing for the petitioner. However, no one appears on behalf of the respondents.

It appears that there was a dispute as to whether the petitioner was at all the first wife of Srikanta since Srikanta also married one Bandana Maity and preferred a divorce suit against the petitioner herein. The said suit was dismissed and in the backdrop of such facts, the respondent no. 4, in his order dated 16th February, 2012, observed that the petitioner was the first wife of Srikanta and as during subsistence of such marriage, Srikanta married Bandana, the said marriage is in clear violation of the provisions of the Hindu Marriage Act. Upon arriving at such finding, direction was issued towards rectification of the name of the nominee of family pension.

No explanation is forthcoming as to why in spite of the order dated 16th February, 2012 passed by the respondent no. 4, the name of the petitioner was not incorporated in the Pension Payment Order

issued in favour of Srikanta. In response to a query as to whether any decision has been taken on the basis of the petitioner's representation dated 24th February, 2016, the respondent no. 3 by a letter dated 11th March, 2020 stated that no such decision has been taken. No explanation is also forthcoming as to why in spite of the specific direction of the respondent no. 4 to incorporate the name of the petitioner as a nominee in the pension papers of Srikanta, appropriate steps were not taken by the respondent no.3.

In the said conspectus, I am of the opinion that no useful purpose will be served by keeping the writ petition pending and the issue needs to be relegated to the respondent no. 3, being the pension sanctioning authority. Accordingly, the respondent no. 3 is directed to consider the representation submitted by the petitioner on 24th February, 2016 upon granting an opportunity of hearing to the petitioner and the school authorities and to take a decision, in accordance with law and in the light of the observations made in this order and to communicate such decision to the petitioner, within a period of four weeks from the date of communication of this order along with a copy of the writ petition.

It is made clear that the school authorities shall appear before the respondent no. 3 on the date

scheduled for hearing and shall produce all relevant records so that the dispute can be resolved.

Needless to observe in the event the petitioner's claim deserves acceptance, all necessary follow up steps shall be taken by the respondents towards disbursement of the benefits, forthwith.

With the above observations and directions, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties upon compliance of all necessary formalities.

(Tapabrata Chakraborty, J.)