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Ct-16

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WPST 70 of 2020
with
I.A No.CAN 1 of 2021(Old No. 5682 of 2020)

Smt. Shefali Mukherjee
Vs.
The State of West Bengal & Ors.

(Via Video Conference)

Mr. Tulshi Das Roy
Mr. Tirthankar Roy
... For the Petitioner

Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar
... For the State

The writ petitioner claims to be the wife of one Tapan Kumar Mukherjee, who died on 1st February, 2014. The petitioner contends that on 12th May, 1988 the marriage was solemnised between her and Tapan Kumar Mukherjee, since deceased and the said marriage was registered on 12th December, 1988 under the provisions of the Hindu Marriage Act, 1955. On the basis of such second marriage, the petitioner claimed family pension.

Before the Tribunal the State filed an affidavit disclosing a copy of the Memorandum dated 29th July 1988, which does not give any right to the second wife claiming family pension. In fact, as it transpires that the disciplinary proceeding was initiated against the said Tapan Kumar Mukherjee, since deceased, for bigamy and appropriate punishment was given to him on 20th November, 2007.

The Memo dated 29th July, 1988 does not recognise the second wife when such marriage was solemnised during the subsistence of the marriage with the first wife for the purpose of

getting family pension. However, it recognises that the children born out of the second marriage are to be accepted as members of the family/ legal heirs within the meaning of rule 7(1)(e)(1) & (2) and rule 170 of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 and one has to establish before the appropriate authority that he or she is a legal heir born out of the second marriage.

In absence of any other material, we feel that the Tribunal was justified in dismissing the writ petition.

The writ application accordingly fails.

WPST 70 of 2020 is thus dismissed without any order as to costs.

In view of dismissal of the writ petition CAN 1 of 2020 is also dismissed.

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

(Hiranmay Bhattacharyya,J.)

(Soumen Sen, J.)

