

42 27.09.2021
rkd Ct.05

W.P.A. 13840 of 2021
(Through Video Conference)

Soma Pandit

-vs-

The State of West Bengal & Ors.

Mr. Ekramul Bari,
Syed Mansur Ali,
Sk. imtiaz Uddin

....for the petitioner.

Mr. Ayan Banerjee,
Ms. Debasree Dhamali

....for the State.

The Memo dated 15th September, 2021 issued by the District Inspector of Schools, (PE) Hooghly addressed to the District Magistrate, Chinsurah, Hooghly relating to issuance of legal heir certificate, is taken on record.

Writ petitioner is a widow of a deceased primary teacher who died on 2nd April, 2018 in harness. The grievance of the writ petitioner is that after the untimely death of the husband of the writ petitioner on 2nd April, 2018 till date death benefits have not been released in favour of her.

Mr. Bari, learned advocate appears on behalf of the petitioner and candidly submits that there are three heirs - the writ petitioner (widow), daughter of the deceased teacher and the mother of the deceased teacher. It is also an admitted position that there was no declaration of nominee

by the deceased teacher during his tenure for disbursal of the benefit in view of his retirement/death. Complication has arisen in view of the fact that a legal heir certificate has been submitted by the writ petitioner before the concerned respondent authorities whereby declaring that the writ petitioner and her daughter are the heirs in view of death of the teacher in harness. Meanwhile the mother of the deceased teacher has lodged claim for release of proportionate amount of death gratuity in her favour. During course of hearing on behalf of the writ petitioner it has been submitted that if in terms of the relevant provisions and based on the appropriate legal heir certificate death gratuity is divided amongst the three heirs being widow, daughter and mother, the writ petitioner does not have any objection but at the same breath it has been submitted that the widow is entitled to get family pension due to untimely death of her husband. There is also another prayer couched in the writ petition for appointment of the writ petitioner on compassionate ground but it has been specifically submitted on behalf of the writ petitioner that such prayer is not pressed at the present moment.

Mr. Banerjee, leaned advocate appears on behalf of the State respondents and submits that since legal heir certificate has been submitted by the writ petitioner containing declaration that the deceased teacher left behind his widow and daughter whereby the mother of the deceased teacher has been left out, the authority is finding difficulty in releasing the death gratuity in favour of heirs of the deceased teacher. Meanwhile the widow being the writ petitioner has submitted that upon correction of the legal heir certificate if the death gratuity is divided amongst those three heirs she will accept it, provided family pension is released in her favour. The District Inspector of Schools (PE) Hooghly Vide Memo dated 15th September, 2021 has forwarded the issue to the District Magistrate, Chinsurah, Hooghly for issuance of legal heirs certificate in favour of the mother of the deceased teacher.

In consideration of the submissions made on behalf of the writ petitioner as well as State respondents and in view of the fact that the concerned District Inspector of Schools (PE) Hooghly has requested the District Magistrate, Chinsurah, Hooghly to issue correct legal heirs certificate, the necessary steps may be taken for

issuance of legal heir certificate by the District Magistrate, Chinsurah, Hooghly upon compliance of formalities by the heirs. On issuance of such legal heir certificate it will be open to the heirs to approach the appropriate authority for disbursal of death gratuity in their favour. Meanwhile the District Inspector of Schools (PE) Hooghly is directed to take necessary steps for settling the family pension case in favour of the writ petitioner being the widow of the deceased primary teacher and release family pension within a period of sixteen weeks from the date of communication of this order upon compliance of necessary formalities.

With the above direction and observation, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)