

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA/24044/2005

**Dipali Gantait
-Versus-
The State of West Bengal & Ors.**

**For the Petitioner : Mr. Soumik Ganguli, Adv.,
Mr. Sayan Roy, Adv.
Mr. Sourat Nandy, Adv.**

For the Respondents : Mr. Sandip Kumar Bhattacharyya, Adv.

Heard on : 11.08.2021.

Judgment on : 11.08.2021

Bibek Chaudhuri, J.

One Biswanath Manna, a Group-D employee in the Office of the Backward Classes Welfare Office under the State of West Bengal died leaving behind the petitioner and private respondent No.6 as his legal heirs and representatives. While the petitioner is the daughter, the respondent No.6 is the son of the above-named deceased employee.

The instant writ petition is filed by the daughter of the deceased claiming equal share in respect of the gratuity of the deceased.

Learned Advocate for the petitioner submits that vide memo No.vii/Misc./EB/D-1086 dated 2nd December, 2004, Provident Fund amount of the said Biswanath Manna, since deceased was disbursed to both the petitioner and the respondent No.6 in equal share. However, in respect of the gratuity, the respondent No.2 failed to make payment in equal share to the petitioner and respondent No.6.

An affidavit-in-opposition is filed on behalf of the respondent No.2 & 3. It is submitted on behalf of the respondent No.2 & 3 by the learned Advocate that the respondents do not have any stake over the instant matter after institution of the writ petition, it was directed by this Court that the Treasury Officer, Jhargram, Paschim Medinipore would not disburse the amount of death gratuity until further instruction of the Accountant General (A & E), West Bengal.

It is further submitted by the learned Advocate for the respondents with reference to what has been stated in Paragraph 4 of the affidavit-in-opposition that the Deputy Secretary to the Government of West Bengal, Finance Department (Pension Branch) forwarded the pension papers in respect of the above-named deceased on 16th August, 2004 and it was received in the office of the Accountant General (A & E), West Bengal on 19th August, 2004. Subsequently the admissibility report had not been issued on 19th August, 2004 seeking sanction of death gratuity in favour of surviving family members as per the provisions of West Bengal Service (Death-cum-Retirement Benefit)

Rules, 1971, wherein the nomination of the petitioner as a nominee stood invalidated since she was married.

Therefore, it is submitted by the learned advocate for the respondent nos. 2 and 3 that if the competent authority in the State Government passes an order of disbursement of death gratuity in favour of the petitioner and respondent no. 6 in equal share, the respondent Nos.2 & 3 shall carry out the said order.

Statutory provision with regard to Hindu Law of Succession is that after the death of a person who dies intestate, both his son and daughter are entitled to the property, both movable and immovable in equal share. Therefore, the petitioner being the married daughter of the deceased is entitled to half share of the death gratuity on the death of Biswanath Manna.

In view of the above discussion, the instant writ petition is disposed of with the following observation that the petitioner and respondent no. 6 are entitled in equal share the death gratuity of Biswanath Manna, since deceased.

The previous sanction accorded by the respondent no. 1, the State of West Bengal is cancelled.

The Principal Secretary, Finance Department is directed to issue fresh order with regard to disbursement of death gratuity of the said Biswanath Manna, since deceased in favour of the petitioner and the respondent no. 6 in equal share and send the order to the respondent

no. 2 for issuance of fresh authority in favour of both the petitioner and the respondent no.6 in cancellation of the previous authority and the respondent no. 5 shall disburse the amount in equal share to the petitioner and private respondent no. 6.

The instant writ petition is, thus, disposed of on contest, however, without costs.

The entire action shall be completed within three months from the date.

Parties are directed to act on the server copy of the order.

(Bibek Chaudhuri, J.)