

7th March, 2022
(D/L No.19)
(SKB)

W.P.A. 2917 of 2022
(Via Video Conference)

Smt. Sarala Mahato
Versus
The State of West Bengal and others

Mr. Lal Ratan Mondal
... for the petitioner.

Mr. Haradhan Mandal
... for respondent nos.2 to 4.

Mr. Kallol Basu,
Mr. Suman Banerjee
... for respondent nos.5 & 6.

Ms. Sanjukta Samanta
... for the State.

Affidavit of service is taken on record.

The petitioner is the mother of one late Nagendranath Mahato, who died intestate in harness on 11th May, 2021. She claims her share of the death-cum-retirement benefits due to the petitioner's son. It appears from the submissions made on behalf of the wife and the daughter that the wife was a nominee of the deceased.

Upon hearing learned counsel appearing for the parties, it appears that the petitioner is entitled to 1/3rd of the retirement benefits of the petitioner's son as being one of the three surviving legal heirs of late Nagendranath Mahato.

The petitioner's case is covered by a Division Bench judgment of this court reported in *(2014)2 Cal LT 511 (Parash Chandra Ghosh versus State of West Bengal and others)*. In that decision, the court relied on *Shipra Sengupta Vs. Mridul Sengupta : (2009)10 SCC 680* and held that a nominee does not stand on a better footing than a legal heir who is entitled to retiral dues under the Law of Succession and further that the nomination does not confer any beneficial interest on the nominee who can merely claim the amount in order to distribute the same in accordance with the Law of Succession. In *Hena Begum Vs. State of West Bengal : 2012 SCC OnLine Cal 4709*, a coordinate Bench further held that the widow(s)/widower is the first party who is entitled to family pension.

In view of the above decisions, W.P.A.2917 of 2022 is disposed of with a direction on the respondents/University (respondent nos.2 to 4) to disburse the retirement dues to the nominee being respondent no.5 of the late Nagendranath Mahato within three weeks from today. Respondent no.5 shall thereafter disburse the said retirement dues in three equal proportions to the petitioner and the respondent no.6 being the daughter of the deceased within two weeks from the date on which the retirement benefits are received by the respondent no.5. The other dues of

the deceased shall be disbursed to the legal heirs of the deceased in accordance with law as pointed out in this decision.

Since no affidavits have been called for, the allegations made in the writ petition are deemed not to be admitted.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Moushumi Bhattacharya, J.)