

15.06.2022

Item No.30

BR

WPA 4716 of 2020

**Sefali Maity
Vs.
The State of West Bengal & Ors.**

In re: An application under Article 226 of the
Constitution of India

Mr. Atarup Banerjee,
Mr. Subhas Jana,
Ms. Poulami Roy
.... For the petitioner

Mr. Bhaskar Prasad Vaisya, ld. AGP
Mr. M.K Ghosh
..... For the State

Mr. Timir Baran Saha
.... For the respondent nos.6 & 7

Mr. P. K Chatterjee
..... For the proposed respondent

Mr. Debabrata Roy,
Mr. Prabir Majumder,
Mr. Sudip Sar4kaer,
Mr. S. Majumder,
Ms. Sarbani Mukhopadhyay
..... For the respondent nos.8 and 10

Re: CAN 1 of 2022

This is an application for addition of party. The applicant claims that he is the son of the deceased employee from his divorcee wife and therefore he is entitled to a share of arrear of the retiral dues of the said deceased employee.

Since the writ petition relates to the disbursement of arrear dues of the deceased father of the applicant, the

application stands allowed.

Let the applicant be added as a respondent in the writ petition.

Accordingly, CAN 1 of 2022 is allowed.

WPA 4716 of 2020

The petitioner is the wife of late Nachiketa Maity, who was an Associate Professor of Muzaffar Ahmed Mahavidyalaya, Murshidabad. He died in harness on 17th January, 2013.

After his death his retiral dues including pension were released in favour of the petitioner and added respondent being his son from his divorcee wife.

It appears that the Director of Public Instruction by an order dated December 19, 2019, had granted an arrear salary of Rs.18,86,032/- in favour of the deceased employee. The said amount could not be disbursed in favour of the petitioner by the college authority since the deceased employee had obtained a loan from Murshidabad District Central Co-operative Bank, respondent no.4, herein, through a cooperative credit society namely, Muzaffar Ahmed Mahavidyalaya Credit Society.

Due to such dispute the college returned back the money to the Director of Public Instruction. Admittedly, as on date the said arrear amount is lying with the Director of Public Instruction.

By filing this writ petition the petitioner prays for disbursal of the said amount in her favour.

The petitioner does not dispute the fact and the Co-operative Bank also suggests that as on date a sum of Rs. 8,52,333/- remains to be repaid to the Bank.

There is no dispute amongst the petitioner, added respondent and the other respondents that the arrear amount lying with the Director of Public Instruction should be disbursed in favour of the legal heirs of the deceased employee, according to the Hindu Succession Act, 1956.

The College, however, disputes figure of the arrear amount lying with the Director of Public Instruction. The College suggests that the amount lying with the Director of Public Instruction is Rs.14,56,959/-. The College says that it is the responsibility of the College to pay back the loan to the bank, in view of Section 59 of the Cooperative Societies Act, 2006.

The interest of the College will not suffer in view of the order I propose to pass in this writ petition.

I dispose of the writ petition giving a direction upon the Director of Public Instruction, West Bengal to disburse the money lying with him in the credit of the deceased employee in favour of his legal heirs after deducting the amount payable to the bank, respondent no.4 herein, within a period of one month from the date

of communication of this order. The Director of Public Instruction shall also remit the amount payable to the Bank within the said period of one month.

In undertaking of such exercise, the Director of Public Instruction shall hear the petitioner, added respondent, and other legal heirs of the deceased employee and the bank.

Accordingly, WPA No.4716 of 2020 is disposed of.

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

(Kausik Chanda, J.)