

05.
24.11.2022
S.D.

W.P.A. 12190 of 2022

**Smt. Bidya Hela
Vs.
The Union of India & Ors.**

Mr. Indradeep Pal
Mr. M.F. Rahaman
Mrs. Sougata Pal Das

..For the Petitioner

Ms. Sujata Mukherjee

..For the Respondent Nos. 2 & 3

Mr. Kalyan Kumar Chakraborty

...For the Union of India

In this writ petitioner, the petitioner claims to be the second wife of the deceased employee one Sonalal Hela. The petitioner's husband was an employee of Syama Prasad Mookerjee Port formerly known as Kolkata Port Trust. He voluntarily retired from services on October 1, 1992. Thereafter, he received his pension. He died on July 27, 2006.

The petitioner made an application for family pension on May 28, 2008.

Ms. Mukherjee, learned counsel appearing on behalf of the respondent/Port Trust submits that since the petitioner was the second wife and the marriage was likely to have been

contracted during the first marriage, the claim of the petitioner cannot be considered. Furthermore from the report on affidavit filed by the respondent nos. 2 and 3, it appears neither the Death Certificate of the first wife nor Marriage Registration Certificate of the petitioner with her husband was produced by her before the Port Trust while making a claim for disbursement of family pension.

Mr. Pal, learned counsel appearing on behalf of the petitioner counters the said argument by submitting that the son of the first wife himself has admitted that his mother has left her family before the second marriage between the petitioner and his father was contracted. Furthermore, she has also passed away now.

Considering the rival submissions of the parties and the materials placed on record, this Court finds that an application was made by the first wife before the Senior Accounts Officer, State Public Information Officer, Pension Section, Kolkata Port Trust enquiring about the last drawn pension by her husband. The said document annexed at page 10 of the report on affidavit leads this Court to hold that the first wife was alive in 2011 and, therefore, the petitioner's marriage was contracted during the subsistence of the first marriage.

Relying on the decision reported in **2000 (2) SCC 431 (Rameswari Devi vs. State of Bihar and Ors.)**, it is well settled that the second wife whose marriage was contracted during the subsistence of the first marriage is not entitled to family pension or any other benefits since the second marriage itself is void in the eye of law.

In the light of the discussions above, **W.P.A. 12190 of 2022** is **dismissed** without any order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

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

(Lapita Banerji, J.)