

05.12.2022
DL No. 102

BM
Court No.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 21447 of 2022

Gangamoni Senapati
Vs.
The State of West Bengal & Ors.

Mr. Bhaskar Chakraborty
Mr. Subrata Mukherjee

... for the petitioner

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh

... for SBSTC

Mr. Manoranjan Jana
Ms. Mitali Jana

... for the widow and grandson

Mr. Panna Lal Bandyopadhyay

... for the State

The petitioner filed this writ petition being the
mother of the deceased employee of the South Bengal
State Transport Corporation (in short "SBSTC").

Mr. Banerjee, learned counsel appearing for
SBSTC submits that a nomination form has been filed
during the tenure of his service, by the deceased
employee making private respondent no.4/wife of the
deceased employee 100% nominee.

The private respondent is also represented in
court today and hands over a short affidavit. The
report on affidavit filed by the respondent no.2,
SBSTC as well as the affidavit filed by the private
respondents are retained with the records.

After considering the submissions of the parties
and the materials placed on record, this court finds

that the employer/SBSTC has not acted illegally and/or unauthorisedly by disbursing gratuity dues in favour of the private respondent.

There are nomination form in respect of the Provident Fund and gratuity dues whereby the respondent no.4 is declared to be 100% nominee. However, this court finds no nomination in respect of leave encashment benefit payable to the deceased employee.

It is made clear that in the event, dues are payable to the deceased employee on account of leave encashment benefits the same should be paid in proportionate share between the mother/petitioner, the respondent no.4/the wife and respondent no.5/minor son, in the absence of any nomination form.

In the event, the petitioner is entitled to her proportionate share in the estate of her deceased son, her grievance may be agitated before a civil court, or any appropriate forum, if so advised.

With the directions aforesaid **WPA 21447 of 2022 is disposed of.**

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

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

(Lapita Banerji, J.)