

30.06.2022
Sl. No.148
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20651 of 2018

Manju Singha Roy
Vs.
Union of India & Ors.

Mr. Sourav Sen,
Ms. Sumitra Das

....for the petitioner.

Ms. Ashima Roy Chowdhury

....for Union of India.

Mr. Kallol Basu,
Ms. Sujata Mukherjee

....for KoPT.

Ms. Riya Chatterjee

...for the respondent nos.4, 5 & 6.

Let the affidavit-in-opposition and the affidavit-in-reply filed in Court today are taken on record.

The petitioner claims to be the second wife of a retired employee of Kolkata Post Trust (in short “KoPT”) now known as Syama Prasad Mookerjee Port, Kolkata, who has passed away on 8th October, 2017. The petitioner says that her husband, Arun Kumar Singha Roy was married to Mukul Singha Roy in the year 1956. Out of the said marriage, one son and two daughters were born. After the birth of the said children, according to the petitioner, Mukul Singha Roy left her husband Arun Kumar Singha Roy and married another person. She never returned to Arun Kumar Singha Roy subsequently. The petitioner

claims that Arun Kumar Singha Roy married her in May, 1973. Subsequent to such marriage, Arun Kumar Singha Roy had applied for inclusion of the petitioner's name as a nominee to his provident fund and gratuity. The petitioner says that after his retirement, Arun Kumar Singha Roy was receiving pension. After the death of the said Arun Kumar Singha Roy, the petitioner is entitled to the family pension. The petitioner's claim for such family pension has been rejected by KoPT, which was communicated to the petitioner by a letter dated 8th June, 2018. The petitioner has challenged this order of rejection.

The second marriage, as claimed by the petitioner, took place in 1973, that is, after the Hindu Marriage Act, 1955 (hereinafter referred to as the said Act) came into operation. Under the provisions of the said Act, the second marriage during the subsistence of the first is an invalid marriage. The petitioner has not been able to demonstrate that the first marriage stood dissolved prior to the second marriage. The second wife, as held by the Hon'ble Supreme Court of India in the judgment reported in **(2000) 2 SCC 431** (Rameshwari Devi v. State of Bihar & Ors.), is not entitled to the family pension.

In the aforesaid facts and circumstances, I do not find any flaw in the decision communicated by the employer, KoPT, vide letter dated 8th June, 2018. The order of rejection, therefor, requires no interference.

The writ petition is accordingly dismissed.

However, dismissal of the writ petition will not prevent the petitioner from approaching the appropriate forum to establish her claim and thereafter make a prayer to the employer for grant of family pension. The employer, if so approached, shall reconsider its decision in accordance with law.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)