

02 **04.07.22**

Ct. No. 04

Akd

WP.ST. 150 of 2019
CAN 1 of 2019 (Old No. CAN 11465 of 2019)

Beauty Biswas
Vs.
The State of West Bengal & Ors.

Mr. Swapan Kumar Pal,
Ms. Sukla Chandra,
Ms. Mohuya Dutta Biswas.
... for the petitioner.
Mr. Pinaki Dhole,
Ms. Kakali Samajpaty.
... for the State.

The instant writ petition arises from an order dated 11th January, 2019 passed by the West Bengal Administrative Tribunal in OA 290 of 2018; whereby and whereunder an application seeking direction upon the respondent authorities to disburse family pension, arrear family pension and other retiral benefits to the writ petitioner was dismissed.

The fact emanates from the instant case pertains to the claim of the writ petitioner for grant of the family pension, arrear family pension and other retiral benefits upon the death of her alleged husband, who was admittedly an employee under the respondent authorities. He was working as police driver at Grade-I and expired on 5th February, 2016 in harness.

The record would further reveal that the deceased employee had a previous wife and from the said wedlock two sons were born, but unfortunately one son has expired as of now. The first wife also expired on 18th June, 2006 and the writ petitioner claimed to have married the said deceased employee during the subsistence of the first wife. The registration of the marriage under the Hindu Marriage Act, 1955 annexed at page 33 of the instant writ petition reveals the date of marriage on 2nd April, 1995 and a daughter was born on 24th June, 1999.

The Tribunal held that if the date of marriage is considered to be correct, then such marriage was solemnized during the lifetime of the first wife and, therefore, is void. The void continues until rectified by further act or action of the parties; meaning thereby the solemnization of the marriage by performing rituals and rites after the death of the first wife.

Such is not eminent or evident from the record and contention is raised before us that the marriage certificate was within the exclusive custody of the deceased employee and would see the light of the day after his death.

Such being the position and the fact that the marriage was claimed to have solemnized during the lifetime of the first wife, we do not think that the present writ petitioner has any claim towards the retiral benefits. Furthermore the claim of the solemnization of marriage is unbelievable for the simple reason that the age disclosed at the time of affirmation of the writ petition does not instill confidence in us for the existence of the aforesaid fact.

We thus do not find any infirmity or illegality in the impugned order.

Accordingly, the writ petition and the connected application are dismissed.

There will be no order as to costs.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)

