

13.04.2023
DL-97
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 748 of 2023

Gitarani Dey
Vs.
Union of India & Ors.

Mr. Nirmalendu Bera,
Mr. Gora Chand Samanta
....for the petitioner.

Mr. Shiv Chandra Prasad
....for Union of India.

Mr. Uttam Kumar Mandal,
Ms. Maitree Roy
....for the respondent nos.2 & 3.

Mr. Sanjib Das
....for the respondent no.4.

The petitioner has prayed for consideration of her representation dated November 14, 2017 for disbursement of family pension on account of her deceased husband who voluntarily retired as an employee of Calcutta Dock Labour Board (CDLB).

Mr. Bera, learned counsel appearing on behalf of the petitioner submits that the petitioner is the legally married wife of the deceased employee and is, therefore, entitled to family pension.

Reports on affidavit have been filed on behalf of the respondent nos. 2 and 3/CDLB and also an opposition on behalf of the respondent no.4/private

respondent who claims to be the second wife of the deceased employee. Such affidavits are retained with the records. Exception and reply respectively thereto have also been filed by the writ petitioner.

From the report on affidavit filed on behalf of CDLB, it appears that in the service record the names of both the petitioner and the private respondent as the first and second wife do appear. However, there is also a note stating that the petitioner is divorced from the deceased employee and is married to another person by the name of Sanjib Kumar Ghosh. Furthermore, a nomination form dated April 11, 1996 has also been annexed to show that the private respondent no.4 is 100% nominee of any terminal benefits of the deceased employee, being the second wife.

Since the nomination form is given in favour of the private respondent no.4 showing her to be 100% nominee, this Court is of the view that the petitioner is not entitled to the payment of family pension.

In such view of the matter, **WPA 748 of 2023** is **dismissed**.

In the event the petitioner has any right in the death benefits of her deceased husband, the same may be adjudicated before the appropriate forum, if so advised.

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.)