DL-12

25.09.2023
Court No.5
(AD)

**WP.ST 3 of 2021**
**With**
**IA No.: CAN 1 of 2023**

**Smt Sunita Gurung**
**Vs.**
**State of West Bengal & Ors.**

*Mr. Adhip Chandra Kar*
*Mr. Manoj Kumar Roy*
*... for the petitioner.*

*Mr. Tapan Kumar Mukherjee,*
*Ld. Sr. Advocate & Ld. AGP*
*Ms. Sangeeta Roy*
*... for the State-respondents.*

*In re.:* **IA No.: CAN 1 of 2023**

CAN 1 of 2023 is an application for restoration.

For the ends of justice and on the basis of the pleadings made in the application, the order dated August 23, 2023 dismissing the writ petition is recalled.

**WP.ST 3 of 2021** is restored to its original file and number.

**IA No.: CAN 1 of 2023** is disposed of.

In re.: **WP.ST 3 of 2021**

The writ petition is directed against an order dated November 1, 2019 passed by the West Bengal Administrative Tribunal in OA 924 of 2018.

By the impugned order, the Tribunal rejected the claim of the writ petitioner to receive the provident fund dues of the deceased government employee.

It appears from the records that, the first wife of the deceased employee expired on December 2, 2017. The only son of the deceased employee expired on December 21, 2017. The deceased employee retired voluntarily from service on January 31, 2018.

There is a marriage certificate dated February 14, 2018 suggesting that, the deceased employee and the petitioner before us were married under the Hindu Marriage Act, 1955 with effect from March 2, 1996.

The deceased employee expired on March 3, 2018. The mother of the deceased employee expired on December 13, 2020. Provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 are relied upon for the contention that, the writ petitioner was nominated in the service records of the deceased employee and, therefore, entitled to the proceeds of the provident fund on the voluntary retirement of the deceased employee.

It is contended on behalf of the State that the provisions of the Act of 1952 does not apply to a State Government Employee.

Apparently, the deceased employee contracted a second marriage during the subsistence of the first marriage. The first wife expired on December 2, 2017. The certificate of registration of the marriage with the writ petitioner/second wife dated February 14, 2018 states that the marriage was subsisting with effect from March 2, 1996.

As on date, under the service rules of the deceased employee, there is a serious doubts as to the entitlement of the writ petitioner before us as the wife of the deceased employee.

It is on this ground that the Tribunal proceeded to negate the claim of the writ petitioner.

We find no ground to interfere with the impugned decision of the Tribunal.

**WP.ST 3 of 2021** is dismissed without any order as to costs.

**(Debangsu Basak, J.)**

**(Md. Shabbar Rashidi, J.)**