

20.02.2023
Court No. 19
Item No.11
CP

W.P.A. No. 8329 of 2022

Sita Das
Vs.
The State of West Bengal & Ors.

Mr. Anindya Bose,
Mr. Diptendu Mondal,
Mr. Nikhil Kr. Gupta
Mr. Mridul Biswas

... for the Petitioner.

Mr. Tapas Adhikari,
Mr. Tapas Kr. Dey

... for the State.

None appears on behalf of the respondent no.
10.

The petitioner claims all the death benefits and family pension available to Subodh Chandra Das, since deceased.

Unless the petitioner's status is determined by a competent court, the petitioner's right to claim the benefits would not arise as the deceased did not accept her as his wife.

Perused the report of the Block Development Officer, Baduria Development Block. It appears that the deceased Subodh Chandra Das joined Jadurhati Dakshin Gram Panchayat on April 1, 1994. He retired from service on May 31, 2011. All the pension papers were submitted before the sanctioning authority, namely, the Director of Pension, Provident Fund and Group Insurance. The pension was sanctioned on February 1, 2013 in favour of the

deceased. The name of the recipient for family pension was absent in the PPO. The deceased claimed that the respondent no. 10 was his legally married wife and wanted to incorporate her name, after his divorce from his first wife. The respondent no. 10 submitted the EPIC where the name of the deceased was reflected as her husband.

The Assistant Director, Pension, Provident Fund and Group Insurance directed that an enquiry be made with regard to the prayer of the deceased to incorporate the respondent no. 10 as his wife. The Block Development Officer submitted a copy of the prayer made by the deceased. The Treasury Officer, Basirhat, was requested to include the name of Sumitra Das (respondent No. 10) as the family pensioner and also as the nominee to receive death gratuity of the late Subodh Chandra Das. The EPIC and Aadhar Card of Sumitra Das reflected that the deceased was her husband. In 2021, the pensioner died. The death certificate was issued to the respondent no. 10. Till the deceased was alive, the petitioner did not make any claim.

It appears that the death-cum-retirement gratuity had already been paid to the deceased.

The petitioner filed an application under Section 125 Cr.P.C., for maintenance. Such application was allowed. The deceased preferred a

revision. The revisional application was allowed. The petitioner challenged the said order passed by the learned Additional Sessions Judge, Fast Track First Court, Basirhat. On the basis of such proceeding, the petitioner claims to be the wife of the deceased and seeks family pension.

The status of the petitioner and the respondent no. 10 cannot be decided by the writ court. Neither can the authorities decide whether the petitioner was the legally married wife and hence, widow of the deceased.

The letter of the deceased indicates that the marriage with his erstwhile wife was annulled in a divorce proceeding and, thereafter, the deceased married the respondent no. 10. The deceased recognized and sought to nominate the respondent no. 10 as his wife and family pensioner. All documents had been furnished to that effect.

Thus, no order can be passed in this writ petition until and unless a competent court decides the status of the petitioner.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)