

11.08.2023
Item No.10
Ct. No.5
CHC

WP.ST 94 of 2023

Smt. Bijaya @ Bijoya Paul
Vs.
The State of West Bengal & ors.

Mr. Susanta Pal,
Mr. Pradip Patra
...for the petitioner

Mr. Biswabrata Basu Mallick, Ld. A.G.P.
Mr. Sanjib Das
...for the State

Mr. Suman Basu
...for the respondent no.3

Mr. Arup Kundu,
Mr. Chittapriya Ghosh,
Ms. Priyanka Saha
...for the respondent no.9

The writ petition is directed against an order dated February 21, 2023 passed on O.A.257 of 2022.

By the impugned order, the Tribunal recorded that, the office of the Accountant General sought information for issuance of a fresh family pension payment order in favour of Jyotsna Pal.

The petitioner before us claims herself to be the first wife of the deceased employee.

There is a dispute as to who is the first wife of the deceased employee.

Service Book of the deceased employee produced in Court on July 19, 2023 was perused and we found that the Service Book of the deceased

employee records that the petitioner before us is the wife of the deceased employee.

The private respondent no.9 claims that she is the first wife of the deceased employee by virtue of a valid marriage certificate. It is also contended that three children were born out of the wedlock between the respondent no.9 and deceased employee.

We find from the records that deceased employee during his lifetime filed a proceeding under Section 24 of the Special Marriage Act, 1954 for dissolution of marriage between him and the respondent no.9. Such proceeding was dismissed. There is also a claim that the respondent no.9 lodged a First Information Report against the deceased employee with regard to her marriage with the petitioner herein.

On perusal of the petition under Section 24 of the Special Marriage Act, 1954 being Matrimonial Suit No.36 of 14 filed before the learned Additional District and Sessions Judge, Khatra, Bankura, we found that, there was a criminal case initiated against the deceased employee.

The records produced before the Court also shows that, by a writing dated August 23, 2022, the Sub Divisional Land and Land Reforms Officer, Khatra, Bankura opined that, the respondent no.9 was the first wife of the deceased employee.

In such circumstances, we called for a report from the authorities by the order dated July 19, 2023 as to the basis for the Sub Divisional Land and Land Reforms Officer, Khatra, Bankura making the observation as noted in the writing dated August 23, 2022. Pursuant thereto report filed in Court be taken on record.

There is absolutely no explanation from the State as to the basis on which Sub Divisional Land and Land Reforms Officer, Khatra, Bankura made the observation as noted in the writing dated August 23, 2022. Such Sub Divisional Land and Land Reforms Officer is not the adjudicating authority for the purpose of deciding the validity of marriage between the deceased government employee and any other person.

The Court is informed that a Civil Suit was filed by the respondent no.9 being Title Suit No.71 of 2023 in the Court of the learned Civil Judge (Junior Division), Khatra, Bankura seeking a declaration that the respondent no.9 is the wife of the deceased employee.

The suit spoken of in the proceeding was filed subsequent to the original proceeding being instituted before the Tribunal.

The respondent no.9 approached the Tribunal for relief with regard to the family pension.

By the impugned order, the Tribunal noted that, the Treasury Officer, Khatra by a writing dated February 16, 2023 advised cancellation of the earlier pension payment order and issuance of a family pension payment order in favour of the respondent no.9.

As noted above, there is no basis for the Treasury Officer, Khatra to issue the writing dated February 16, 2023 for issuance of a family pension payment order in favour of the respondent no.9. The petitioner before us is recorded in the service records of the deceased employee as of his wife. Till such time, a Court of competent jurisdiction, declares the respondent no.9 to be the wife of the deceased employee, the right of the petitioner before us stands established.

In such circumstances, the impugned order dated February 21, 2023 is set aside.

The letter dated February 16, 2023 of the Treasury Officer, Khatra is quashed. The authority will issue family pension payment order in favour of the petitioner before us. The authority will commence disbursing payment of such pension in favour of the petitioner before us. This order will not prejudice the private respondent in her suit for declaration being Title Suit No.71 of 2023.

The pension paid to the petitioner will abide by the result of such Title Suit.

WP.ST 94 of 2023 is disposed of without any
order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)