

Court No. 22
13.01.2023
(Item No. 64)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 15554 of 2022

Anasuya Chatterjee
VS
The State of West Bengal & Ors.

Mr. Gautam Banerjee
..... for the petitioner
Mr. Avishek Prasad
.... For the State
Mr. Amitava Chaudhuri
Mr. N. Roy
.... For respondent No.2

Affidavit of service filed in Court today, is taken on record, which contains the two news paper publications of notices in terms of the direction made on November 14, 2022 and December 8, 2022.

The petitioner claimed to be the mother of the deceased **Assistant Professor** at **Maharaja Nandakumar Mahavidyalaya, District – Purba Medinipur**, namely, **Dr. Arnab Chatterjee**, since decease. The Assistant Professor died on April 24, 2018 as would be evident from the death certificate, **Annexure P-1** to the writ petition. The wife of the deceased Professor namely, **Smt. Jhilam Mukherjee** pursuant to the direction made by this Court on August 24, 2022 was impleaded as a party respondent.

Despite directions made by this Court to serve notice upon **Smt. Jhilam Mukherjee**, the petitioner despite its attempts, could not serve notice upon her

as it would be evident from the affidavits of service filed from time to time which are on record. This Court then by its orders dated November 14, 2022 and December 8, 2022 directed to cause the petitioner the necessary news paper publications, one in the local news paper at New Delhi and one in an English news paper with a wide circular. On the first occasion the hearing date was mentioned wrongly in the first publication though notice was published in the news paper. Accordingly, pursuant to further direction the second news paper publication was made. Those news paper publications are all on record.

Mr. Gautam Banerjee, learned advocate appears for the petitioner.

Mr. Amitava Chaudhuri, learned advocate appears for respondent No. 2.

Mr. Avishek Prasad, learned advocate appears for respondent No. 1.

The petitioner now claims the employment benefit on account of his deceased son, namely, Dr. Arnab Chatterjee as Mr. Gautam Banerjee, learned advocate for the petitioner has confirmed that, there is no other heir and legal representative of the deceased to receive the said employment benefit of the deceased. The learned advocate for the petitioner had relied upon the representation made by the relevant Collage authority dated May 7, 2021, **Annexure P-3** to the writ petition.

Learned counsel appearing for the respondent No. 2 on instruction submitted that, no representation was submitted by the petitioner before the relevant State authority.

Considering the submissions made on behalf of the appearing parties and upon perusal of the materials on record to sub-serve justice, the petitioner is granted liberty to file a comprehensive representation before the respondent No. 2 positively **within a period of two weeks** from date.

In the event, such representation is received by the respondent No. 2, then the same shall decide the issue on the basis of such representation upon giving at least seven days prior hearing notice to the **petitioner, respondent Nos. 3, 4 and 5** and after giving them an opportunity of hearing shall decide the issue with a reasoned order/decision strictly in accordance with law. During the hearing the respondent No. 2 shall decide the issue as to the existence of any other legal heir or representative of the deceased Professor, to its satisfaction **at the threshold**. For such reason, the petitioner shall be obliged to provide and supply whatever documents and records she will be asked to supply by the respondent No. 2.

The entire exercise as directed above shall be carried out and completed by the respondent No. 2

positively within a period of eight weeks from the date of receiving such representation from the petitioner.

It is made clear that this Court has not gone into the merit of the claim of the petitioner in any manner and the petitioner, and the relevant College authority shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent No. 2.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

In the event, the decision goes in favour of the petitioner after proper scrutiny of all the facts and records as directed above, then the respondent No. 2 and the College authority shall do the needful and take all necessary and consequential steps positively within a period of four weeks from the date of passing of the said reasoned order to disburse and release the necessary amount in favour of the petitioner.

It is further made clear that, this order shall not create any equity or right in favour of the petitioner, in the event, she is found otherwise in eligible to receive her claim strictly in accordance with law.

On the above terms, this writ petition being **WPA 15554 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)