

Item-66. 03-10-2023

MAT 1678 of 2022
CAN 1 of 2023

sg Ct. 8

The State of West Bengal & Ors.
Versus
Mallika Bera & Ors.

Mr. Jayanta Samanta, Adv.
Mr. Anand Farmania, Adv.
Ms. Rinku Sen, Adv.

...for the appellants

Mr. Shamim ul Bari, Adv.
Mr. Goutam Maity, Adv.

...for the writ petitioner

1. The appeal is at the instance of the State. The State is aggrieved by the order passed by the learned Single Judge on 6th June, 2022 directing release of pension and permitting the petitioner to take step to include herself in the bank account of Bimalendu Bera so that the benefit of family pension can be made available to him.
2. The appellant has relied upon the findings of the District Inspector of Schools, South 24 Parganas dated 11th May, 2022 preceding the impugned order wherefrom it appears that Bimalendu had two wives. The writ petitioner claimed to be the second wife. The inquiry report shows that both the wives requested the District Inspector of Schools for release of the retiral dues of Bimalendu in order to overcome the financial distress by which the family of Bimalendu is presently going through.
3. The learned counsel for the writ petitioner has produced before us a death certificate to show that his first wife died on 1st September, 2022, a copy of the same is take on record.
4. During inquiry, it is found that Mallika is the second wife of

Bimalendu and she resides separately but she was present at Bimalendu's house at the time of inquiry. Mallika has three daughters and one son.

5. Having regard to the health condition of Bimalendu, it is important that he should receive the all retiral dues and for that reason, all pensionary benefits i.e. provident fund, gratuity and pension should be remitted to the designated bank account linked to his salary in terms of the order dated 6th June, 2022 positively within two weeks from date.
6. It is submitted on behalf of the State that provisional pension payment order has been issued on 10th February, 2023 in favour of Bimalendu.
7. Bimalendu shall decide whether the writ petitioner shall be included in his account to receive the benefit of family pension.
8. The CMOH, Sough 24 Parganas shall also ascertain the desire of Bimalendu with regard to inclusion of the name of the writ petitioner in the bank account or any other person according to his choice.
9. The impugned order is modified to the aforesaid extent.
10. The appeal and the application are, accordingly, disposed of.
11. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)