

18.
19.1.2023
S.D.

W.P.A. 25407 of 2022

Jayati Das Chawdhuri
Vs.
Union of India & Ors.

Ms. Soni Ojha
Mr. Taraknath Jaiswal
...For the petitioner
Mr. Subrata Kumar Sinha
Mr. Debasis Sur
...For the Respondent Nos. 2 & 3

The petitioner has prayed for Death cum Retiral benefits of her deceased husband. The petitioner's husband died-in-harness on August 17, 2011. The petitioner's husband was an employee of State Bank of India (in short, SBI). At the time of the death of the petitioner's husband, her daughter was a minor child.

The daughter of the petitioner was born on August 27, 1996. At present, she is aged about 26 years.

From the report on affidavit filed on behalf of the employer/SBI, it appears that the petitioner was divorced from her husband by a decree of divorce dated March 27, 2009 passed by the learned District Judge, Barasat, 24-Parganas (North).

It was submitted by Mr. Sinha, learned counsel appearing on behalf of SBI that the petitioner is not entitled to

any death cum retiral benefits on behalf of her husband. Entitlement, if any, would be in favour of the daughter of the deceased employee and not the petitioner being the ex-wife of the deceased employee.

Considering the rival submissions of the parties and the materials on record placed before this Court, this Court finds that the fact that the petitioner was divorced from her husband was not brought on record by the petitioner before this Court. The representation dated November 21, 2011 made by the petitioner before the Manager, SBI clearly states that she was divorced and she was only claiming the death benefits of her deceased husband being the guardian of her minor daughter.

In the view of this Court, it is clear that the petitioner was aware that her rights were non-existent. She was completely aware of the fact that being divorced from her husband, she was not entitled to the death cum retiral benefits of her ex-husband. The petitioner also is aware of the fact that her daughter has attained majority. The petitioner has prayed for release of all the benefits in the present writ petition in her favour seeking to deprive her daughter.

It is not explained to this Court that why despite being a major, the petitioner's daughter has not come forward to challenge the purported inaction on the part of the SBI.

In the light of the discussions above, this Court is constrained to hold that the present writ petition suffers from suppression of material facts and should be dismissed. The action/conduct of the petitioner is not appreciated by this Court.

W.P.A. 25407 of 2022 is dismissed.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)