

WPA 28179 of 2022

Tapati Panda & Ors.
Vs.
The State of West Bengal & Ors.

Ms. Mousumi Bhowal
Mr. S. Naskar

....for the petitioners

Mr. Suddhadev Adak

...for the WBMICAL

Mr. Avijit Tewary

...for the respondent No. 6

Mr. Satyajit Mondal
Mr. Amit Bikram Mahata

...for the respondent No. 7

The petitioner No.1 claims to be the wife of the deceased employee. The petitioner Nos. 2 & 3 are the sons of the deceased employee of West Bengal Minor Irrigation Corporation Limited (WBMICL). The deceased employee died-in-harness on March 21, 2010.

It is the petitioners' case that upon the death of the first wife, the deceased employee married the petitioner No.1. The deceased employee had 2 sons from his first marriage. Out of the 2 sons, one son has already passed away.

The second son is made a party respondent to the present proceedings. As per the nomination form filed by the deceased employee, the provident fund dues were disbursed to the 2 sons from the first marriage.

Therefore, this Court is of the view that recovery, if any of the proportionate share of the petitioners of the provident fund dues will have to be adjudicated by the

appropriate civil forum, if appropriate proceedings are filed and not by the writ court. The issue that remains to be considered as on date relates to the family pension payable to the petitioner No.1.

Pursuant to a judgment and decree dated June 30, 2018 passed by the learned Civil Judge (Junior Division), Haldia in Title Suit No.132 of 2010, the petitioner no.1 has been declared to be the legally married wife of the deceased employee. The Petitioner Nos. 2 and 3 are his children.

All the petitioners are declared to be the heirs of the deceased employee.

It has also been held in TS 132 of 2010 that the plaintiffs/the petitioners herein are entitled to proportionate share of death benefits of the deceased employee. The 2 sons by previous marriage were restrained from misappropriating the proportionate share of the plaintiff's dues.

It transpires that a hearing was given to the petitioners by the Managing Director, WBMICL on October 11, 2023. From the minutes dated August 17, 2023 it appears that a notice was given to the first wife of the deceased employee. However, no one appeared on behalf of the first wife.

The petitioner no.1 categorically stated that she applied for family pension including the dues of the death benefits of her husband. The Managing Director appraised her and the other petitioners that not only

the PF dues but gratuity and leave salary have also been disbursed to the nominees of the deceased employee.

The EPFO informed the corporation that family pension is not been paid to any person because only the legal wife of the deceased employee is entitled to receive family pension. Since the petitioner was not enrolled as the legal wife at any time by the deceased employee, petitioner No. 1 was not being given the family pension.

Considering the rival submissions of the parties and the materials placed on records, this Court is of the view that the petitioner no.1 is being harassed unnecessarily by the employer/WBMICL. The order of the Civil Court dated June 30, 2018 clearly holds the petitioner no.1 to be the legally married wife of the deceased employee. After such declaration by the appropriate Civil Court, how the Managing Director can withhold the family pension of the petitioner No.1 is not clear to this Court. It has also been categorically recorded that no one appeared on behalf of the first wife despite service being effected.

Today in Court the private respondent no.7 is represented. It is submitted that the mother of the private respondent is already dead, as was previously submitted by the petitioners.

Therefore, to the mind of this Court there is no impediment in grant of family pension to the petitioner no.1.

The petitioner no.1 will be granted family pension month by month starting from December 10, 2023. The arrears of family pension will be paid to the petitioner No.1 from March 22, 2010 (date subsequent to the date of death of the deceased employee) along with interest @6% per annum from March 22, 2010 till the disbursal of the entire amount. The disbursal of the entire amount will be made within a period of 2 months from date. The employer/WBMICL will pay the interest on the arrears of family pension to the petitioner no.1 within 2 months. All the necessary formalities will be completed by the employer within one month from the date of this order. Upon compliance of all the necessary formalities for grant of family pension the RPFC will disburse the arrears of family pension and also make month by month payment of the same from December, 2023.

With the directions aforesaid, **WPA 28179 of 2022 is disposed of.**

All parties to act on the server copies of this order duly downloaded from the official website of this Hon'ble Court.

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

(Lapita Banerji, J)