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11.04.2023
SB
Ct. No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 849 of 2023

Jharna Kar
-versus-
The Union of India & Ors.

Mr. Subinay Dey
Mr. Debanjan Das ... For the petitioner

Mr. Sudipto Kumar Mazumdar, Ld. D.S.G.I.
Mr. Ajoy Kumar Singhanian
... For Union of India

The petitioner claimed to be the widow of one Amar Chandra Kar, since deceased who was an employee of the Border Security Force.

The employee died on March 27, 2020 as would be evident from **Annexure P-4 at Page 30 to the writ petition.** The petitioner claimed to be the widow and legal heir and representative, eligible to receive all the retiral benefit of the said deceased employee which is being withheld by the B.S.F. The petitioner through its advocate submitted a comprehensive representation dated July 25, 2022 **Annexure P-8 at Page 35 to the writ petition.** The same had not yet received the attention of the said authority.

Mr. Das, learned counsel appearing on behalf of the petitioner submitted that widow is surviving in a

precarious condition and entitled to receive the retiral benefit of the deceased employee.

Mr. Mazumder, learned D.S.G.I. appeared for the respondents drawing attention of this Court at **Annexure P-6 at page 33 to the writ petition**, submitted that, the name of the wife of the deceased employee is Sunita and not the petitioner as per the service record of the deceased.

Be that as it may, to sub-serve justice, the respondent no. 2 being the appropriate authority as submitted by Mr. Mazumder, learned D.S.G.I. is directed to consider the said representation dated **July 25, 2022, (Annexure P-8 at Page 35 to the writ petition)** after giving atleast seven days prior hearing notice to the petitioner and then after giving an opportunity of hearing either personally or through her duly authorized representative shall decide the issue by passing a reasoned order in accordance with law.

The entire exercise as directed above shall be carried out and completed by the respondent no. 2 positively within a period of six weeks from the date of communication of this order. The respondent no. 2 then shall communicate the reasoned order to the petitioner within a further period of two weeks from the date of the reasoned order to be passed.

It is made clear that, this Court has not gone into the merit of the claim and rival claim of the parties in any

manner whatsoever. All the parties shall be at liberty to urge whatever points they wish to urge before respondent no. 2 by relying upon whatever records and documents they wish to rely upon.

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

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

It is also made clear that the entire hearing can also take place through virtual mode through video conference. In that case, the parties wish to rely upon their respective documents shall exchange the same by and between themselves through their respective E.mail IDs to be furnished to each other by them atleast three days prior to the schedule date of hearing. The hearing may take place through virtual mode and the petitioner shall be entitled to participate through its authorized agents.

In the event the reasoned order goes in favour of the petitioner then the appropriate authority of the respondents shall give effect theretos within a period of six weeks from the communication of the reasoned order.

On the above terms, this writ petition being **W.P.A. 849 of 2023** stands disposed of, without any order as to costs.

(ANIRUDDHA ROY, J.)