

14.06.2024
rpan/07

WPST 5 of 2024
Pramila Mahata
– *Versus* –
The State of West Bengal & Others

Mr. Lal Ratan Mondal,
Mr. Dilip Kumar Sadhu,
Mr. Avik Kumar Das
... for the Petitioner.

Mr. Tapan Kumar Mukherjee, Ld. AGP,
Ms. Ashmita Chakrabarty
... for the State/Respondents.

Ms. Sudipa Biswas,
Ms. Riya Ballav
... for the Private Respondent no.7.

The present writ petition has been preferred challenging an order dated 14th December, 2023 passed by the learned Tribunal in the original application (hereinafter referred to as OA), being OA 231 of 2021.

Mr. Mondal, learned advocate appearing for the petitioner, namely, Pramila Mahata (hereinafter referred to as Pramila) submits that one Nayan Mahata (hereinafter referred to as Nayan), who was a permanent employee of the Department of Forest, Government of West Bengal, married Pramila and in the said wedlock, they had three sons and one daughter. Nayan subsequently expired on 17th December, 2020 leaving behind his legally married

wife, namely, Pramila. The permanent residence of Nayan and Pramila was at village – Salboni, Post Office – Pirakata, Police Station – Salboni, District – Paschim Medinipur. For the purpose of attending the duties, Nayan was allotted a quarter at Lalgah Range Office. He used to come over to his permanent residence on holidays. Behind the back of Pramila and during subsistence of her marriage, Nayan allegedly married one, Dipti Pramanik (hereinafter referred to as Dipti), taking advantage of the illiteracy and innocence of Pramila. Stating such facts, Pramila submitted a representation to the respondent no.2 for the service benefits of Nayan on 20th April, 2018 along with all relevant documents and she was thereafter called for a hearing on 3rd May, 2018. Pursuant thereto, Pramila duly appeared before the concerned officer but no reply was furnished by the authorities. After Nayan's demise on 17th December, 2020, she submitted a further representation on 18th December, 2020, however, the respondents thereafter maintained a deceptive silence. Aggrieved thereby, Pramila preferred the OA enclosing the heirship certificate issued by the Panchayat and other relevant documents. In the said OA, an application for addition of party was preferred by

one Tripti Mahata (hereinafter referred to as Tripti) claiming to be the legally married wife of Nayan. The said application was allowed and the State respondents filed a reply in the OA stating *inter alia* that in the service book records of Nayan, the name of Tripti was incorporated as the nominee for Death Gratuity, GPF and GISS.

He submits that Nayan entered into a relationship with another woman during subsistence of his marriage with Pramila. Marriage of Nayan with Tripti, if solemnized, was a void marriage and Tripti did not acquire any legal status to claim the terminal benefits of Nayan. It would be explicit from the records that Nayan's alleged marriage with Tripti was solemnized after the commencement of the Hindu Marriage Act, 1955 and such marriage was in contravention of the provisions of the Hindu Marriage Act, 1955 and as such, Tripti cannot claim the terminal benefits pertaining to Nayan's service. The said issues, as urged, were glossed over by the learned Tribunal and no finding was returned on the same.

He argues that the impugned order passed by the learned Tribunal, in fact, has the effect of encouraging and perpetuating a nullity inasmuch as Nayan's alleged marriage with Tripti was a void

marriage. Such infirmity in the decision making process warrants interference of this Court. In support of his arguments, Mr. Mondal has drawn our attention to the certificate issued by the local gram panchayat, the affidavit affirmed by Pramila and a memo dated 12th March, 2024 issued by the Collector, Paschim Medinipur, wherein the name of Pramila stands incorporated as the first wife of Nayan.

Per contra, Ms. Biswas, learned advocate appearing for Tripti, being the respondent no.7 denies and disputes the contention of Mr. Mondal and submits that Tripti is the legally married wife of Nayan, as would be explicit from the marriage certificate issued on 20th, December 1991. Her name also stands incorporated as the nominee in the service records of Nayan and upon considering all such documents the entitlement of Tripti was accepted by the State respondents towards grant of the terminal benefits.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents submits that responding to the representation submitted by Pramila, she was called for a hearing but she did not appear in the same and did not produce relevant documents. In

the said conspectus, the claim of Pramila is not acceptable.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The argument advanced on behalf of Pramila that she was the first wife of Nayan was rightly discounted by the learned Tribunal since no documents pertaining to such claim was produced before the authorities; whereas Tripti produced the marriage certificate in support of her relationship with Nayan and her name also stands incorporated in the service records of Nayan, as his nominee.

The claim of Pramila appears to be based upon certificate issued by the local gram panchayat. Pramila as well as Tripti had produced legal heir certificates which were issued by the District Magistrate, Jhargram on 16th December, 2021 and by the District Magistrate, Paschim Medinipur on 12th March, 2024. Pramila's claim involves serious disputed questions of fact, which are complex in nature and requires oral evidence for its determination. Such disputed questions of fact can only be decided by the competent civil forum and in accordance with law. The order impugned was passed on the basis of the service

records of Nayan and the marriage certificate issued in favour of Tripti.

In the said conspectus, we do not find any error in the decision making process or any patent error of law in the order impugned.

In view thereof, no interference is called for in the present writ petition and the same is, accordingly, dismissed.

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

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

(Supratim Bhattacharya, J.) (Tapabrata Chakraborty, J.)