

03.10.2024

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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 20110 of 2024

Sukdev Adhikari & Anr.

-Vs-

The Durgapur Projects Limited & Ors.

Mr. Siddhartha Sarkar

.... for the petitioners

This matter was taken up on 24th September, 2024 when on the submissions made by the learned advocate for the petitioners, leave is granted to correct certain typographical errors and order was passed for releasing the retiral benefits of the deceased employee of Durgapur Projects Limited (in short, 'DPL') namely Bhuban Mohan Adhikari as known as Mohan Adhikari in favour of the petitioners being respectively his son and daughter. However, at the time of signing the order when the file was scrutinized, it was found that the employee at the time of his death was survived by his widow, his son and his daughter. Although, the petitioners before the Court being the son and daughter of the deceased employee say that their mother being the widow of the deceased employee was missing at the time of death of the employee. There is no declaration from a competent Court regarding the presumed death of the widow on being missing for 7 years or more and has not heard of by his son and daughter who would

have ordinarily heard of their mother within the seven years from the date she went missing.

In the instant case, the widow may be missing for more than seven years and has not been heard of by her son and daughter who ordinarily would have heard of their mother being alive but there is no declaration from a competent Court regarding the same and as such, the disbursement of the share of the widow cannot be made at this stage.

The DPL is directed to release $2/3^{\text{rd}}$ share of the unpaid retiral benefits of the deceased employee with accrued interest from the date of death of the employee concerned till actual payment @ 6% simple interest per annum. The disbursement should be made within a period of four months from the date of communication of this order. So far as $1/3^{\text{rd}}$ share of the widow is concerned, the same should be retained by DPL and be invested in an interest bearing account with any nationalized bank. In the event, there is a declaration from the competent Court, subsequent steps may be taken for release of such money with accrued interest.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

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

All parties including the DPL shall act on the basis of the server copy of this order without insisting upon production of a certified copy thereof.

(Arindam Mukherjee, J.)