

JPD-4
Ct No.01
Jalpaiguri
30.7.2024
S.Bag

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

WP.ST 4 of 2024

GIRIBALA BARMAN
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Kalyan Kumar Chakraborty, Adv.
Ms. Puja Chakraborty, Adv.

.....for the appellant

Mr. Subir Kumar Saha, Adv.
Mr. Kumar Shantanu, Adv.

...for the State

1. The report filed today kept on record.
2. The grievance of the petitioner is limited. The petitioner is the first wife of late Suresh Chandra Roy, who was an employee with the police. The said employee met his demise on April 19, 2024. When the petitioner, in the capacity of his first wife, approached the authorities for disbursement of the pensionary benefits in her favour, the authorities insisted upon certain documents to be produced by the petitioner by a communication dated July 5, 2021, annexed at page 44 of the present petition.
3. Learned counsel for the petitioner submits that since the marriage took place about 60 years

back, there was no common practice of obtaining marriage certificates at that juncture and as such, the petitioner is unable to provide the marriage certificate. However, the petitioner is agreeable to furnish the documents as enumerated in item nos. 3 to 6 of the said communication, being a detailed report of the only daughter of the petitioner, a written declaration made by the petitioner whether any other benefit has been received from her deceased husband's family, a declaration/certificate from the Competent Authority regarding dependent parent of the deceased government employee to ensure whether they are deemed to be dependent and a relationship certificate from the legal authority.

4. Learned counsel appearing for the respondent authorities contends that in principle, the respondent authorities admit that the petitioner is the first wife of the deceased employee and as such would otherwise be agreeable to disburse pensionary benefits in her favour. However, the absence of marriage certificate is primarily coming in the way.
5. That apart, the petitioner, without approaching the authorities with such documents as called

for, directly went up to the tribunal and as such, the authorities did not have any opportunity of resolving the dispute.

6. We find from the impugned order that there is no infirmity in the same, since the tribunal merely held that the petitioner had challenged only a correspondence advising the petitioner to submit certain documents and there was no adjudication of rights or adverse order against the interest of the petitioner.
7. We agree with the view of the tribunal that the application was premature.
8. However, keeping in view the plight of the petitioner, instead of further relegating her to the tribunal it would only be appropriate if specific directions are passed by this Court.
9. Since it is admitted that the petitioner is the first wife of the deceased employee namely late Suresh Chandra Roy, and taking judicial note of the fact that six decades back, there was no commonly prevalent practice of obtaining marriage certificates, particularly in areas and communities from which the petitioner hails, we are of the opinion that such requirement of production of marriage certificate can be dispensed with.

10. At this juncture, learned counsel for the respondent authorities points out that the children of the deceased from the second wife are not to be blamed and as such their share in the pensionary benefits need not be taken away.
11. We appreciate such submission and completely agree with the same. In any event, even in the eye of law, children, even if illegitimate, are fully entitled to the estate of a deceased person. Hence, there cannot be any impediment in disbursing the shares of the children of the said deceased employee, even if from an illegitimate marriage, in their favour. Accordingly, the pensionary benefits have to be shared between the present petitioner (first wife) and the children of the deceased employee from the second marriage.
12. In such view of the matter, WP.ST/4/2024 is disposed of without interfering with the impugned order but by directing the petitioner to furnish the documents as enumerated in item nos. 3, 4, 5 and 6 of the communication by the Superintendent of Police, Jalpaiguri dated July 5, 2021, annexed page 44 of the present application, before the respondent authorities at the earliest. Upon furnishing of such

documents, the respondent authorities shall ensure that the share of the petitioner in the pensionary benefits on the demise of her late husband Suresh Chandra Roy be disbursed in her favour at the earliest. It is reiterated that nothing in this order shall prevent the disbursing authorities also to disburse the shares of the children of the late employee from his second marriage in their favour as well.

13. It is expected that such disbursal shall be made preferably within one month from the date of furnishing of such documents by the petitioner.

14. No order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)