

01.08.2025

Item No. 139

Crt.No.02

Moumita

WPA 15567 of 2025

Suvadeep Majumder

-vs-

The Senior Superintendent of Post Offices & Ors.

Mr. Mainak Biswas

.... For the petitioners

Mr. Suman Chattopadhyay

Ms. Tapasi Sinha Palit

..... For the Respondent nos. 1 to 3

Affidavit of service filed in Court today, is taken on record.

Mr. Mainak Biswas, Learned advocate appears for the petitioner.

Mr. Suman Chattopadhyay, learned advocate with Ms. Tapasi Sinha Palit, learned advocate appears for the respondent nos. 1 to 3.

The petitioner claims to be the son of a deceased employee of Postal Department, Union of India. The facts stated and the submissions made on behalf of the parties reveal that the deceased employee in his service book has made the necessary declaration in favour of his first wife and the son out of the wedlock of the said first marriage. Validity of the alleged second marriage out of which the petitioner has born is not recognized by the employer.

In such circumstance, the claim of the mother of the petitioner for family pension was rejected by the employer.

Now, the petitioner claims family pension on the basis of the provision that where a deceased government servant or pensioner leaves behind children from more than one widow or from a widow and a divorced wife or from a widow or a divorced wife in a void or voidable marriage, the child or children who fulfill the eligibility conditions shall be entitled to share family pension which their mother would have received at the time of the death of the government servant or pensioner.

In the facts of this case, the eligibility of the petitioner son is disputed by the employer.

Considering the above rival contentions, this court finds that upon to proper adjudication the status of the petitioner and his rival claimant are first required to be ascertained. Such adjudication would involve disputed question of facts which would give rise to triable issues. Triable issues cannot be adjudicated by this Constitutional Court in exercising its authority under Article 226 of the Constitution of India.

In view of the above, the petitioner shall be at liberty to file a property constituted civil suit before

the jurisdictional Civil Court, if the petitioner is otherwise entitled in law. In the event, such civil suit is filed, the jurisdictional Civil Court shall try the point of limitation as the preliminary issue.

Such civil suit shall be filed by the petitioner within a period of **six weeks** from date.

In the event, such civil suit is filed, it is expected that the jurisdictional Civil Court shall try and come to a logical conclusion expeditiously in accordance with law.

It is made clear, that this Court has not gone into the merits of the allegations and counter allegations of the parties. The jurisdictional Civil Court shall proceed independently and without being influenced by any observation made by this court.

Accordingly, this writ petition, **WPA 15567 of 2025** stands **dismissed**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)