

08.01.2025

Item no.ML/13
Court No. 23

Asraf, A.R.(Ct)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 24594 of 2024

Amita Chattopadhyay
Vs.
The State of West Bengal & Ors.

Mr. Sandip Ghosh
Mr. Partha Sarkar
Ms. Mousumi Chatterjee
....for the Writ Petitioner
Mr. Abhijit Sarkar
Ms. Ananya Neogi
Ms. Anushka Ghosh
....for the State

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

The petitioner is the married sister of a *Bal Sevika* / *Griha Sebika* engaged under the Integrated Child Development Scheme (for short, "ICDS") implemented by West Bengal Social Welfare Board. The petitioner says that her sister, namely, Smt. Mamata Chakraborty retired from the post of such *Bal Sevika* / *Griha Sebika* on attaining the age of superannuation. The petitioner/sister is, therefore, entitled to certain retiral benefits and pension. The petitioner also claims to be a nominee appointed by her unmarried sister Smt. Mamata Chakraborty. The petitioner's sister after attaining the age of superannuation was not given the retiral and pensionary benefits. As a consequence whereof the petitioner's sister filed a writ petition before

this Court being WPA no.8543 of 2022(Smt. Mamata Chakraborty Vs. The State of West Bengal & Ors.). During the pendency of the said writ petition, the petitioner's sister, namely, Smt. Mamata Chakraborty died on 30th November, 2022. The petitioner is seeking a direction upon the authority for disbursement of the retiral and pensionary benefits to the petitioner being the nominee of the employee.

The role of a nominee is to collect the money and distribute it among the legal heirs and/or heiresses. Assuming without admitting that the petitioner is one of the legal heiresses of her unmarried sister, namely, Smt. Mamata Chakraborty, the writ petition is completely vague in respect of the presence of any other legal heirs and / or heiresses of Smt. Mamata Chakraborty. The writ petition is also vague as it does not say whether the said Mamata Chakraborty died intestate or testate. It is also settled position that even if the retiral benefits are reckoned to be part of the estate of the deceased employee the family pension and/or pensionary benefits do not form part of the estate as will appear from the judgment reported in AIR 2016 SC 4552 (Nitu vs. Sheela Rani & Ors.) but is given as per the prevailing scheme of the employer.

In absence of these facts pleaded and prima facie demonstrated before the Court, I am not inclined to

pass any direction upon the authority concerned for disbursing the retiral and pensionary benefits as applicable to the nominee being the petitioner simply because a direction by the Court will be used as a tool to pressurize the concerned officer to release the money in favour of the petitioner without there being any legal right duly established by the petitioner. Moreover, if the money is directed to be released in favour of the petitioner as a nominee the Court or the authority will have no control if the petitioner as a nominee does not distribute the money amongst the heirs and / or heiresses.

In the aforesaid facts and circumstances, the writ petition cannot be entertained and is accordingly dismissed.

Dismissal of the writ petition, however, will not prevent the petitioner from espousing her cause for release of retiral and / or pensionary benefits before the appropriate authority under which the petitioner's sister used to work with relevant documents establishing her claim.

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

(Arindam Mukherjee, J.)