

17.03.2026
Court No.25
D/L No.12
S. Gayen

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

WPA 29036 of 2025

**Shibani Roy Dutta
Versus
Union of India & Ors.**

Mr. Sudip Deb, Sr. Adv.
Mr. Sumitava Chakraborty
Ms. Bratati Pramanick
Mr. Shantanu Chakraborty
...for the Petitioner

Mr. Ram Chandra Agarwal (VC)
Mr. Atanu Basu
...for the Respondent Nos. 1-5

Mr. Sabyasachi Mukherjee
Mr. Mukesh Khanna
Mr. Mrinmay Nandy
Mr. Sayan Mondal
Mr. Ranabeer Halder
Ms. Swastika Saha
Mr. Siddharth Kundu
...for the Respondent No.6

1. Affidavit of service and affidavit-in-reply filed by the petitioner be kept with the record.
2. The petitioner has filed the present writ application praying for a direction upon the respondent authorities to consider the representation submitted by the petitioner on 21st October, 2025 wherein, the petitioner has requested the respondent authorities to include the name of the petitioner in the service book of her husband, the respondent No.6 herein.

3. Learned counsel for the petitioner submits that the petitioner is the legally wife of the respondent No.6 who was working as Gate Man under the Eastern Railway. The respondent No.6/husband/employee superannuated from his service on 31st December, 2025. The petitioner came to know that her husband has retired but her name has not been included in the service book, she made a representation to the authorities but the authorities have not considered the representation, the petitioner has filed the present writ application.
4. The respondent authorities have submitted the report by way of an affidavit. In the report, the authorities have stated as follows:-

“That the statements made in paragraphs 1 to 2 are true to my knowledge and the statements made in paragraph no. 3 and 4 are true to my information based on records which I verily believe to be true, and the rest are my humble submissions before this Hon’ble Court.

i) In regards to admissibility of Pension in case of death of Shambhu Nath Roy, Ex. P.Man/IP(Res-6) this is to inform you that “As per sub Rule 7(iii) of Rule 75 of Pension Rule-1993, where the deceased railway servant or pensioner is survived by widow but has left behind child or children from a divorced wife or wives, such child or children if they satisfy other conditions of the eligibility for payment of family pension shall

be entitled to the share of family pension which the another would have received at the time of death of the railway servant or Pensioner had she not been so divorced.

As per PCPO/ER Sr. circular No. 64/2013, children from void marriage are entitled for pensionary benefit.

As the 2nd marriage is void as per Hindu Marriage Act, the Legally married 1 "wife and daughter from 2nd wife both are eligible @ 50% each as per above rule".

5. Learned counsel appearing for the respondent No.6 submits that the petitioner has deserted the respondent No.6 and the respondent No.6 has conducted second marriage. In the second marriage, one female child was born who is aged about 15 years. He submits that as the petitioner has deserted the respondent No. 6 and the respondent No.6 has conducted second marriage and one female child was also born, the name of the petitioner cannot be recorded in the service book and in the pension papers. He submits that the name of the second wife/respondent No.7 and her minor daughter are to be included in the service book as well as in the pension documents. He further submits that due to dispute between the petitioner and the respondent Nos. 6 and 7, the authorities have only released the provisional

pension and all the retiral benefits have not released by the respondent authorities.

6. Heard the learned counsel for the respective parties and perused the materials on record. This Court finds that it is admitted by the respondent No.6 that the petitioner is the legally wedded wife of the respondent No.6 and it is also admitted that there is no decree of divorce granted by any Court by dissolving the marriage between the petitioner and the respondent No.6. Thus, the respondent No.7 has no right to claim any pensionary benefit of the respondent No.6 but the daughter born out of the wedlock between second marriage who is minor and entitled to get her name recorded in the service book. It is settled law that the illegitimate child is also entitled to get the benefit, if any, from the Government servant.
7. Considering the above, the respondent authorities are directed to immediately process the pension papers of the respondent No.6 by including the name of the petitioner being legally wedded wife as well as the daughter of the second wife and to release all the consequential benefits including the monthly pension in favour of the respondent No.6. At the time of issuance of the Pension Payment Order, the name of the petitioner shall be recorded as legally wedded wife in the Pension Payment Order of the respondent No.6 alongwith the name of minor daughter. The

authorities are directed to complete the process for release of all the consequential benefits including the monthly pension in favour of the respondent No.6 within a period of eight weeks from the date of receipt of this order.

8. WPA 29036 of 2025 is disposed of.
9. The original service book produced by the authorities is returned to the learned counsel for the authorities.
10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
11. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all formalities.

(Krishna Rao, J.)