2nd Sept., 2026

Item no.D/L 39
Court No. 18

Pradip, A.R.(Ct.)

In the High Court at Calcutta

Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 1062 of 2025**

In the matter of:

Rina Yasmin

.... Petitioner

VS.

The Union of India & Ors.

....Respondents

For the Petitioner:

Mr. Debasis Kar
Mr. Husen Mustafi
Ms. Rimi Sil

....Advocates

For the Union of India :

Mr. Pramod Kumar Drolia
Mr. Santosh Kumar Pandey

....Advocates

1. The petitioner is the wife of a deceased employee, who expired sometime in 2024. The petitioner is aggrieved that she has not been given the family pension as well as the gratuity of her deceased husband.

2. The ground of refusal by the authorities is that the respondent no. 7 has made an application for grant of family pension as the second wife of the deceased employee as well as an application for compassionate appointment.

3. The petitioner's marriage to the deceased employee was somewhat rocky while it subsisted. In fact, a divorce certificate has also been placed on record, on the basis of which the authorities have acted.

4. This divorce certificate, according to the petitioner was issued by the concerned Kazi who subsequently declared the same to be null and void upon coming to learn that the first marriage had taken place between the deceased employee and the petitioner no. 1 under the Special Marriage Act.

5. While exercising jurisdiction under Article 226 of the Constitution of India, it is not for the Court to determine which of the two marriages of the deceased employee should subsist and which is to be set at rest.

6. The fundamentals are these that under Rule 45 of the Central Civil Services Rules, 2021 and more particularly the CCS (Pension) Rules, 2021, an employee is entitled to retirement gratuity and on his death, death gratuity.

7. Rule 46 thereof deals with nominations. The said employee in his lifetime and during his service is entitled to nominate a person, preferably a family member as the person entitled to receive gratuity, in the event of his death.

8. In terms of the nominations made, the gratuity is payable under Rule 47 thereof.

9. In the present case, the deceased employee had nominated the respondent no. 7, his second wife as the nominee. Hence, the authorities have no other option but to pay the gratuity to the respondent no. 7, in terms of such nominations.

10. Insofar as the payment of family pension is concerned, the same is covered under Rule 50(8)(c) of the said Rules. This rule stipulates that in the event, the employee has more than one wife, in the case of two wives; the family pension shall be paid to both wives in equal shares.

11. Mr. Husen, learned advocate for the petitioner submits on instruction that the petitioner no. 1 is entitled to receive one half of the share insofar as family pension is concerned. Let such half of the share be made over to the petitioner no. 1 by the respondent

authorities within a period of six weeks from the date of service of this order.

12. The petitioner has made an application for compassionate appointment, which is pending consideration by the authorities, as admitted by Mr. Drolia appearing for the authorities.

13. Since there is also an application of similar nature made by the respondent no. 7 which is pending consideration, both applications will be considered in accordance with the provisions of law and compassionate appointment be granted, if and when one of the two (petitioner or respondent no. 7) is found eligible.

14. With the aforestated directions, the writ petition stands disposed of.

15. There shall be no order as to costs.

16. Parties to act on the basis of the server copy of this order, duly downloaded from the official website of this Court.

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

(Reetobroto Kumar Mitra, J.)