
(2020) 02 CAL CK 0065
In the Calcutta High Court
Case No : Writ Petitions (WP) No. 23251 Of 2019

Beauty Begum

APPELLANT

Vs

State Bank Of India & Ors

RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

State Bank Of India Employees Pension Fund Rules, 1955 — Rule 23(5)
Code Of Criminal Procedure, 1973 — Section 125

Citation : (2020) 02 CAL CK 0065

Hon'ble Judges : Amrita Sinha, J

Bench : Single Bench

Advocate : Y.A. Mondal, Syed Nazmul Hossain, S.M. Sahin, Subrata Kumar Sinha

Final Decision : Disposed Of

Judgement

Amrita Sinha, J

The petitioner claims to be the legally married second wife of a deceased employee of the State Bank of India. The case of the petitioner is that the

employee married the petitioner in accordance with the Muslim rites and customs. A female child was born out of the wedlock of the petitioner and

the employee. The marriage was duly registered before the Kazi in the Muslim Marriage Register. As the employee did not care to maintain the

petitioner and the child the petitioner was compelled to approach the Court of the learned Additional Chief Judicial Magistrate at Kandi, Murshidabad

for necessary orders under Section 125 Cr.P.C. The Court decided the matter and observed that the petitioner being the legally married wife of the

employee is entitled to receive maintenance from the husband.

After his death the first wife of the employee approached the Bank for release of pension.

The Bank has not yet taken any decision to release the pension in favour of any of the wives.

The petitioner has annexed a copy of her Marriage Registration Certificate, Ration Card, Aadhar Card and the certified copy of the order passed in

her favour by the learned Additional Chief Judicial Magistrate at Kandi, Murshidabad in support of her claim that she is the legally married wife of the employee.

The Chief Manager, Human Resources, State Bank of India has filed a report by way of an affidavit indicating that Rule 23(5) of the State Bank of

India Employees' Pension Fund Rule mentions that in the event of death of a member (i) while in service of the Bank after completion of

pensionable service of one year or (ii) after retirement, the trustees may sanction family pension to the dependent(s) of the employee on the terms and conditions approved by the Central Board.

The Bank has issued circular instruction(s) in the matter of payment of family pension wherein it is stated that at the first instance the family pension

is payable to widow upto her death or remarriage whichever is earlier. It is also stated that if the pensioner leaves two legally wedded wives, the

family pension is payable to both the wives in equal proportions. In the case of claim by more than one widow, the 50% of family pension may be paid

to the widow whose identity of being legally wedded wife is beyond doubt and the rest 50% may be paid after obtaining suitable Court order declaring

herself also as a legally wedded wife and entitled to receive pension.

In the case at hand, the petitioner claims that she is the legally wedded wife of the employee and has annexed the marriage certificate and the order

of the learned Court in support of her contention.

In view of the above, the instant writ petition is disposed of by directing the respondent no. 3 being the Regional Manager, State Bank of India to

decide as to whether the petitioner shall be entitled to receive proportionate amount of pension along with the first wife. In the event, the said

respondent is of the opinion that the petitioner will be entitled to the proportionate share of pension he will take up the matter with the pension and

provident fund sanctioning authority for disbursal of the same in her favour.

Prior to taking a decision in the matter the said respondent shall afford an opportunity of hearing to the petitioner as well as the first wife of the

employee.

The said respondent shall take a decision within a period of ninety days from the date of communication of a copy of this order. The reasoned order

shall be communicated to the petitioner and the first wife of the employee within a fortnight thereafter.

WP No. 23251(W) of 2019 is disposed of.

The report filed by the respondents is taken on record.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.