

23.10.2013

HON'BLE THE CHIEF JUSTICE
and HON'BLE MR JUSTICE T. NANDAKUMAR SINGH

ORAL : HON'BLE JUSTICE PRAFULLA C. PANT, C.J.,

Shri K Paul, Advocate, present for the writ petitioner.

Smti S Sen, Advocate, present for the respondent No.1.

Heard.

By means of this writ petition, the writ petitioner has challenged the order dated 03.12.2013, passed by the Central Administrative Tribunal, Guwahati, in Original Application No. 310 of 2012, whereby the Tribunal has directed that the family pension be released in favour of the present respondent No. 1 (who was applicant before the Tribunal).

The brief facts of the case are that Late Harish Banik (husband of respondent No. 1 Smti Rita Rajkhowa Banik) was working as Senior Accountant in the Office of the Accountant General, Meghalaya, who died on 28.01.2011 leaving behind the respondent No. 1 Smti Rita Rajkhowa Banik as her widow, and the present writ petitioner Smti Premoda Banik (mother of the deceased).

It appears that a Title Suit No. 5(T) 2011 was instituted by the mother of the deceased employee (present writ petitioner) against the widow of the deceased (present respondent No. 1) in respect of possession of Flat owned by the deceased. It is pleaded by the respondent No. 1 Smti Rita Rajkhowa Banik, before the Central Administrative Tribunal, Guwahati, by filing Original Application No. 310 of 2012 that on the basis of pendency of the said Title Suit, the respondent No. 2 (Accountant General, A & E, Shillong), has wrongly deprived her pension, gratuity, provident fund etc. payable to her, vide order dated 29.07.2011.

The Tribunal found that the Accountant General, has erred in law in declining the family pension, gratuity and provident fund etc. to the present respondent No. 1, after the death of her husband merely on the ground of the pendency of the Title Suit No. 5(T) 2011.

It is argued before us on behalf of the writ petitioner (mother of the deceased employee) that there was a divorce petition filed by the deceased employee against the present respondent No. 1 as she had deserted him. However, it is nowhere stated that any decree of divorce was passed before the death of the employee dissolving his marriage with the present respondent No. 1. As such in our opinion, merely for the reason that a divorce petition was pending at the time of the death of the employee, does not deprive his widow, of her rights in respect of the family pension, gratuity, provident fund etc. It is nobody case that anyone else was legally wedded wife of the deceased, except the present respondent No. 1.

In the above circumstances, having heard the learned counsel for the parties, we are of the view that the Central Administrative Tribunal has committed no error of law in allowing the application filed by Smti Rita Rajkhowa Banik (present respondent No. 1) for release of family pension.

Therefore, without prejudice to the rights of the parties in the Title Suit No. 5(T) of 2011 (pending before the Assistant to Deputy Commissioner, Shillong), this writ petition is dismissed summarily.

JUDGE
(Hon'ble Mr Justice TNK Singh)

CHIEF JUSTICE

dev
23.10.13