

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA 252 of 2023

Abu Sayed -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. S. Bhattacharya,
Ld. Advocate.
For the State respondent : Mr. G.P. Banerjee,
Ld. Advocate.
For the Pr.AG (A&E), : Mr. B. Mitra,
WB Depttl. Rep.

01
12.05.2023

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Affidavit of service filed be kept on record.

The prayer in this application is for a direction to the respondent authority to delete the name of Panura Begum, reportedly the divorced wife of the applicant from the service book and pension account book and replace the same with the present wife, Sushmita Basu alias Ayasha Sayed. The applicant retired on 31.05.2012 as Sub-Inspector of Police under Kolkata Police. It appears that after his superannuation, the retired employee married a second time after divorcing the first wife in 2014. Such a certificate of divorce issued on 21.01.2014 by the office of the Muslim Registered Kazi is in the record. Submission of Mr. S. Bhattacharya, learned counsel for the applicant is that since the applicant has divorced the first wife, Panura Begum and later married another person, Ayasha Sayed, therefore, the name of the second wife has to be recorded in the pension papers. It has also been submitted that the respondent, Deputy Commissioner of Police, Central Division had asked the applicant to attend a hearing in this matter on 25.04.2022. As per the learned advocate, the applicant had attended this hearing. As advised, during the hearing, the applicant submitted a fresh application before the same Deputy Commissioner of Police on 02.05.2022.

Mr. G.P.Banerjee, learned counsel for the State respondents submits that this application is not maintainable before this Tribunal because the

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Tribunal has no jurisdiction to determine the status of the applicant's family members. Secondly, Mr. Banerjee also refers to page 40 of the application in which the applicant in his application has mentioned the date of 24.07.2011 as the date of his marriage to the second wife, Sushmita Basu alias Ayasha Sayed. Mr. Banerjee submits that as per the records available in this application, the date of divorce with the first wife is mentioned as 22.01.2014, therefore, it implies that the applicant married for the second time during the subsistence of the first marriage, which is against his service rules.

Mr. B. Mitra, the Departmental Representative for the Principal Accountant General (A&E), West Bengal files a copy of Memo. No. 285-F(Pen) dated 24.03.2023 in which it has been clarified by the Finance Department that second wife of any Government employee is not eligible for any pensionary benefits in her favour if the second marriage was solemnised in the life-time of the first wife in terms of Rule 5(4) of West Bengal Services (Duties, Rights and Obligations) Rules, 1980.

After hearing the submissions of the learned counsels, the Respondent No. 2 (iii), the Deputy Commissioner of Police, Central Division is directed to consider the applications submitted by the application on 25.03.2022 and 02.05.2022 according to the rules as referred above within a period of 12 (twelve) weeks from the date of communication of this order.

Accordingly, the application is disposed of.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)