

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.181 of 2023

Rekha Chakma

.....Petitioner

V_E_R_S_U_S

The State of Tripura & 4 Others

.....Respondents

For Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. K. Nath, Advocate.
For Respondent(s)	:	Mr. B. Majumder, Deputy SGI. Mr. D. Bhattacharjee, G.A. Mr. S. Saha, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

_O_R_D_E_R_

02/05/2023

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing for the petitioner. Also heard Mr. B. Majumder, learned Deputy SGI, Mr. D. Bhattacharjee, learned G.A. assisted by Mr. S. Saha, learned counsel appearing for the respondents.

[2] This petition has been filed under Article-226 of the Constitution of India directing the respondents to give the family pension all post death benefits including gratuity, full and final withdrawal of GPF to the petitioner following the death of the petitioner's deceased husband on 10.10.2022 while he was in the post of Rifleman, TSR, 6th BN TSR, Khowai, Tripura under the respondents. Further, cancelling the letter dated 19.01.2023 issued by the Deputy Secretary, Government of Tripura, Home Department to the Director General of Police, Tripura.

[3] The case of the petitioner is that the petitioner has filed this writ petition for necessary direction upon the respondents to give her all post death benefits including family pension, gratuity, full and final withdrawal of GPF etc. following the death of the deceased husband on 10.10.2022 while he was in the post of Rifleman, TSR, 6th BN TSR, Khowai, Tripura under the

respondents. The petitioner has also sought for quashing and cancelling the letter dated 19.01.2023 issued by the Deputy Secretary, Govt. of Tripura, Home Department, to the Director General of Police, Tripura.

[4] Hence, the present petition has been filed by the petitioner before this Court for redress.

[5] Learned counsel appearing for the petitioner has submitted that after marriage between the petitioner and the S. Babu (deceased herein) they lived at their rented house at Chakmaghat and out of their marriage two sons have been born. They are B. Rahul and B. Rabin, the birth certificate of the petitioner's sons recorded the names of Rekha Chakma i.e. the petitioner and deceased S. Babu as their parents. After few months of marriage the dispute arose between them and subsequently, the deceased a filed written statement in the case No. Crl. Misc 05.2017 (125) before the Family Court, Unakoti Judicial District. In the written statement he did not dispute the marriage. But the respondent contended that the marriage between them had been dissolved through the Chakma Social Panchayat.

[6] However, as per settled position of law, the Chakma Social Panchayat has no jurisdiction to dissolve the marriage between the petitioner and the deceased S. Babu. The real fact was that marriage between them was not dissolved by the so called panchayat and the marriage was subsisting. On 17.01.2018, the petitioner came on mutual understanding with her deceased husband and filed the petition before the Court to withdraw the above mentioned case as she did not want to proceed with the case any further.

[7] After few days of withdrawal of the case, the problem again cropped up between the petitioner and her husband. The deceased left h is wife i.e. the petitioner in a rented house and denied to maintain her. in the year 2018 the petitioner was compelled to file a case i.e. Misc (DV) 03 of 2018 before the Sub-Divisional Magistrate, Longtharai Valley, Dhalai Tripura against her deceased husband.

Subsequently, the husband of the petitioner died on 10.10.2022 leaving behind the two minor sons as legal heirs and survivors. At the time of death S. Babu was 42 years old. The deceased was posted at 6th BN TSR (IR-II), Ramchandra Ghat, Khowai, West Tripura.

[8] After the death of the husband of the petitioner she is entitled to family pension being the legally married wife of deceased Govt. employee. The petitioner had her two minor sons are also entitled to all service benefits. On 17.11.2022 the petitioner has submitted representation to the Commandant, 6th BN, TSR, Khowai and requested to provide her all the post death benefits including regular monthly pension etc. following the death of deceased as the petitioner is the legally married wife of the deceased. Thereafter, after getting no response, the petitioner served a legal notice dated 08.01.2023 to the Commandant, 6th BN, TSR, , Khowai for providing her all service benefits.

[9] The Deputy Secretary, Govt. of Tripura, the respondent No.3 vide letter dated 20.01.2023 directed the Director General of Police to take necessary action as per views of law department. In the said letter referring to the opinion of the law department, it is stated that though there is an order of payment of Rs.3000pm given by the SDM in favour of the claimant, but it is not the conclusive proof that the claimant was the legally wedded wife of the deceased Govt. employee. Thereafter, the petitioner has submitted another representation to the Director General of Police, the respondent No.2.

[10] It is clear from the order of the learned Family Court that the petitioner is the legally married wife of the deceased S. Babu and out of their wedlock two sons have been born. In view of this, the respondents acted unreasonably and arbitrarily by asking the petitioner to obtain the declaration from the civil Court to the effect that she is the legally wedded wife of the deceased S. Babu. The respondents ought to have acted upon the genuine claim of the petitioner by releasing the family pension and post death benefits.

[11] It has been submitted on behalf of the respondents that the office of the respondent No.5 is discharging the duties of Authorization of pensionary benefits of the State Govt. employees while the concerned HOD/DDOs are the Pension Sanctioning Authority. In discharging the duty of Authorizing authority, the office of the respondent No.5 is duty bound to scrupulously follow the CCS (Pension) Rules, 1972 as adopted by the Tripura State Government as well as the rules and regulations as issued by the Finance department, Govt. of Tripura.

[12] The bone of contention of the issue as transpires from the instant writ petition reveals that the writ petitioner has filed the present case in order to obtaining the pensioner benefits like family pension, gratuity, final withdrawal of GPF etc. in respect of the deceased employee. But it reveals from the letter of the Deputy Secretary, Govt. of Tripura dated 19.01.2023 that there may have some matrimonial dispute.

[13] In view of above discussion and observation, this Court is of the view that the case of the petitioner is that she is the legally wedded wife of the deceased government employee and she is also blessed with two children. It has also been revealed that they were not in a cordial relationship and subsequently, for separation, the petitioner is also approached before the learned Family Court in this regard and taking recourse of the proceeding dated 17.01.2018, wherein, it has been categorically recorded in its docket proceeding that the husband of the petitioner who is presently deceased has accepted that the petitioner herein is his legally wedded wife and they had blessed with two children and their names were also recorded in the service record.

[14] From the office of the Commandant, 6th Battalion TSR (IR-II), Ramchandraghat, Khowai Tripura, regarding marital status, one letter has been communicated to the petitioner and for the purpose of reference the relevant part of the same may be reproduced herein below:

“.....In this regard, Smt. Rekha Chakma has already been informed of the legal opinion of the Law Department, Government of Tripura on the issue of authorization of family pension in respect of late S. Babu (Ex.Rfn (GD) which was communicated from Home Department, Government of Tripura vide letter No. F.42(4)-PD/2016/210 dated 19.01.2023. Subsequently, Smt. Rekha Chakma has been asked to obtain a decree of declaration in respect of marital status from the competent Civil Court within a period of 01(one) month to the Office of the Commandant 6th Battalion, TSR (IR-II) for taking further necessary action vide this office letter No. 0801/F.25/TSR-6/Die-in-harness/2020 dated 27.01.2023. The copy of views of Law Department as conveyed vide letter dated 19.01.2023 of the Home Department Government of Tripura and copy of this office letter dated 27.01.2023 are enclosed herewith for ready reference.

Therefore, appropriate course of action can be taken on production of a decree of declaration in respect of marital status of Smt. Rekha Chakma with the deceased and the status of B. Rahul & B. Rabin with the deceased from the competent Civil Court in accordance with the legal opinion of the Law Department, Government of Tripura on the issue....”

[15] In support of her contention, birth certificate containing names of the petitioner herein and also the father, deceased S. Babu was there and with this document the petitioner has approached before the respondent but the respondent has rejected the claim with regard to release of death benefits of the deceased husband and contending that proper clarification from the Court needs to be obtained and subsequently, the same was communicated to the petitioner.

[16] Thereafter, the present writ petition has been filed. It has been stated that the name of the petitioner is not found in the service record and becomes difficult for the respondent authority to take any such decision. In the present circumstances, it is seen that counter affidavit has not yet been filed by the respondent and sought for a month's time for filing counter.

[17] Since, this writ petition has already been admitted on 31.03.2023 and the petitioner is going around the office of the respondents for couple of years, this Court feels that instead of keeping this petition pending, if the matter is decided by the respondents and accordingly, the same is ordered. However, liberty is given to the petitioner to approach before the respondents with all the

relevant documents including the records of the judicial proceeding in support of her claim with regard to her claims as prayed in this petition and represent the matter. On such receipt of the representation, the respondents shall consider the same in accordance with law and after determination, the same be communicated to the concerned respondents for doing the needful as early as possible preferably within a period of two months after receipt of such representation from the end of the petitioner.

[18] In that view of the matter, the present petition stands disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

A. Ghosh



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