

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.424 of 2022

Smti. Lila Deb Majumder

.....Petitioner

_V_E_R_S_U_S_

The State of Tripura and 5 Others

.....Respondents

For Petitioner(s)	:	Mr. S. Datta, Advocate.
For Respondent(s)	:	Mr. B. Majumder, DSGI
		Mr. T. D. Majumder, Sr. Advocate.
		Mr. D. Sarkar, Advocate.
		Ms. R. Debbarma, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

_O_R_D_E_R_

06/07/2023

Heard Mr. S. Datta, learned counsel appearing for the petitioner. Also heard Mr. B. Majumder, learned DSGI, Mr. T. D. Majumder, learned senior counsel assisted by Ms. R. Debbarma, learned counsel and Mr. D. Sarkar, learned counsel appearing for the respondents.

The present petition has been filed under Article-226 of the Constitution of India seeking release of the pensionary benefits like GPF, Death cum retirement gratuity, leave salary encashment etc. upon demise of late Sudhan Chandra Deb in favour of the petitioner and the respondent No.6 along with interest @12% per annum w.e.f. 11.04.2014 till date of actual payment. Further, release of the arrears of family pension payable to late Maya Rani Deb till 22.01.2016 to the petitioner along with interest @12% per annum w.e.f. 11.04.2014 till date of actual payment.

The facts in brief are that, the petitioner approaches before this Court for retiral benefits like GPF amount, Death cum retirement gratuity, leave salary encashment etc. of late Sudhan Chandra Deb in favour of him and also asserts the right of the petitioner and the respondent No.6 to receive the retiral benefits of late Sudhan Chandra Deb, who was serving as Group-D employee under the department of Fisheries, Govt. of Tripura in equal share. The petitioner further claims arrears of family pension payable to late Maya Rani Deb till her demise. During the lifetime of late Sudhan Chandra Deb said late Sudhan Chandra Deb firstly married Smti. Maya Rani Deb and out of their wedlock, the petitioner Smti. Lila Deb Majumder, daughter was born. Subsequently, late Sudhan Chandra Deb without obtaining divorce from the first wife and during the lifetime of first wife

contracted a second marriage with Smti. Kajal Deb (respondent No.5) and out of their wedlock the respondent No.6, Sri Sujit Deb, son was born. Thus, late Sudhan Chandra Deb contracted an illegal and void marriage with the respondent No.5 during the life time of the first wife namely Smti. Maya Rani Deb.

Thereafter, the petitioner prayed for release of retiral benefits of late Sudhan Chandra Deb vide representation dated 12.09.2015. The petitioner states that the marriage between late Sudhan Chandra Deb and respondent No.5 being null and *void ab initio*, the respondent No.5 is not entitled to receive any benefits. But the petitioner and the respondent No.6 who is the son out of the second wedlock are entitled for the pensionary and retiral benefits of late Sudhan Chandra Deb. The petitioner has prayed for a direction upon the official respondents to release the arrears of family pension which was payable to late Maya Rani Deb in favour of the petitioner along with interest @12% per annum till the date of actual payment.

The petitioner has prayed for the following reliefs:

- i. Issue notice upon the respondents.
- ii. Call for the relevant records.
- iii. Issue rule calling upon the official respondents to show cause as to why the arrears of family pension payable to late Maya Rani Deb till her demise shall not be released in favour of the petitioner along with interest @12% p.a. w.e.f. 11.10.2014 till date of actual payment.

AND

Issue rule calling upon the official respondents to show cause as to why the other retiral benefits like General Provident Fund, Death cum retirement gratuity, leave salary encashment, etc. shall not be released in favour of the petitioner and the respondent No.6 in equal share along with interest @12% p.a. w.e.f. 11.10.2014 till date of actual payment.

- iv. And after hearing the parties, be pleased to make the rule absolute.”

In view of above and having heard the learned counsel appearing for the parties this Court is of the opinion that there is no such impugned order or action which is under challenge in this petition and in that view of the matter, no mandamus can be issued. However, considering the case of the petitioner seeking pension of the deceased government employee showing their relationship attached to the deceased employee, ends of justice would be met if the petition is disposed of giving liberty to the petitioner as well as the unofficial respondents to approach before the appropriate authority for their claims. Since, the petitioner has not approached before the respondent and there is also counter claim by the unofficial respondents, this Court without going into the merit of the case giving liberty to

the petitioner and the unofficial respondents to approach before the concerned authorities as per law and the concerned authority may consider the case and communicate their decision within a period of three months from the date of receipt of the copy of this order.

Accordingly, the present petition stands disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

A. Ghosh

ANJAN
GHOSH

Digitally signed
by ANJAN GHOSH
Date: 2023.07.10
16:13:45 +05'30'

