

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.1036/2022

Prativa Nath Goala & another

.....Petitioner(s).

V E R S U S

The State of Tripura & others

.....Respondent(s).

For Petitioner(s)	: Mr. Sankar Lodh, Advocate, Mr. Samarjit Bhattacharjee, Advocate.
For Respondent(s)	: Mr. Bidyut Majumder, Dy. S.G.I., Mr. Debalay Bhattacharya, G.A., Mr. Mangal Debbarma, Addl. G.A., Mr. T.K. Deb, Advocate.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

10/02/2023

Heard Mr. Sankar Lodh, learned counsel as well as Mr. Samarjit Bhattacharjee, learned counsel appearing for the petitioners. Also heard Mr. Mangal Debbarma, learned Addl. Government Advocate appearing for the State respondents No.1 to 5, Mr. Bidyut Majumder, learned Dy. S.G.I. appearing for the respondent No.6 and Mr. T.K. Deb, learned counsel appearing for the respondent No.7.

2. This instant writ petition has been filed under Article 226 of the Constitution of India seeking a direction to the respondents to release

the regular monthly family pension and other post-death benefits including arrears thereof along with interest @ 10% per annum w.e.f. 27.07.2016 and also to provide job in favour of the petitioner No.1-wife of the deceased employee on compassionate ground or financial assistance under the die-in-harness scheme as notified on 26.12.2015.

3. Petitioners have prayed for the following reliefs:

"(i) Issue Rule calling upon the Respondents to show cause as to why writ in the nature of mandamus and/or any other Order shall not be issued whereby directing the Respondents Nos.1 to 6 to release **regular monthly family pension and other post-death benefits such as group insurance, leave encashment, gratuity, final withdrawal of GPF**, etc., in favour of the Petitioners **with interest @ 10% per annum** w.e.f. 27.07.2016 (one month after date of death of deceased government employee) till the date of actual payment.

(ii) Issue Rule calling upon the Respondents to show cause as to why writ in the nature of mandamus and/or any other Order shall not be issued whereby directing the Respondents Nos.1 to 6 to provide **job on compassionate ground** in favour of the Petitioner No.1 or in lieu thereof **financial assistance under die-in-harness Scheme, notified on 26.12.2015**, in view of the death of Hemanta Kumar Goala, Warder, on 27.06.2016, attached with the O/o the Longtharai Valley Sub-Jail, Dhalai, Tripura.

(iii) Issue Rule calling upon the Respondents to show cause as to why writ in the nature of mandamus and/or any other Order shall not be issued whereby directing the Respondents Nos.1 to 6 to pay **arrear pension and other post-death benefits such as group insurance, leave encashment, gratuity, final withdrawal of GPF**, etc., in favour of the Petitioners **with interest @ 10% per annum** w.e.f. 27.07.2016 (one month after date of death of deceased government employee) till the date of actual payment.

(iv) Make the rule absolute.

(v) Call for records.

(vi) Pass any further order/orders as this Hon'ble High Court considered fit and proper.”

4. The facts of the case, in short, are that the petitioners are the legally married wife and son respectively of deceased employee Hemanta Kumar Goala, who died in harness on 27.06.2016 while serving as Warder under the respondent No.4 at Longtharai Valley Sub Jail leaving behind his wife Prativa Nath Goala, his son Raj Goala and his mother Smt. Chanmoni Goala. After the death of deceased employee, the petitioners are entitled to family pension and other post retiral benefits. They were totally dependent upon the income of the deceased and as such, they were running pillar to post for getting such benefits, but the respondents did not pay any heed thereto. Ultimately,

the petitioner-wife submitted detailed representation on 05.08.2022 seeking release of post-death benefits including regular monthly family pension, leave encashment benefit, gratuity, group insurance, final withdrawal of GPF etc., including arrears thereof along with interest @ 10% per annum w.e.f. 27.07.2016 and also to provide job in favour of the petitioner No.1-wife of the deceased employee on compassionate ground or financial assistance under the die-in-harness scheme as notified on 26.12.2015, but all went in vain. Aggrieved thereby, the petitioners have approached this Court by filing the instant writ petition. Hence, this case.

5. Mr. Sankar Lodh, learned counsel appearing for the petitioners, contends that upon submitting the representation by the petitioner-wife for release of post death benefits, the respondent authority demanded no objection certificate to be obtained from the respondent No.7-mother but as per CCS (Pension) Rules, if it is admitted fact that the petitioner is the legally married wife of the deceased, there is no scope for requirement of any no objection and as per rule, all the legal heirs will get their respective shares of benefits proportionately. Counsel also contends that against the mandate of CCS (Pension) Rules and in disregard of the petitioners right to life and

liberty guaranteed under Article 21 of the Constitution of India, the respondents have most illegally and arbitrarily withheld the regular monthly pension and other post-death benefits causing serious prejudice to the petitioners. Counsel further contends that due to rapid inflation of essential commodities, the petitioners are facing severe financial hardship to maintain their livelihood. Accordingly, he prays for releasing the regular monthly family pension and other post-death benefits including arrears thereof in favour of the petitioners.

6. On the other hand, Mr. Mangal Debbarma, learned Addl. Government Advocate appearing for the State respondents No.1 to 5, contends that upon death of the deceased employee, the legal heirs of the deceased require to submit the death certificate, survival certificate etc. to regularize the family pension and for release of the other retiral and post-death benefits.

7. Mr. T.K. Deb, learned counsel appearing for the respondent No.7-mother, in rebuttal of the submissions advanced by the learned counsel for the petitioners, contends that the petitioner No.1 Smt. Prativa Nath Goala is not the legally married wife of the deceased employee since earlier she married another Akhil Debnath and from their wedlock,

she had one son and one daughter. Counsel also contends that the petitioner in her petition nowhere stated that she had married the deceased Hemanta Kumar Goala at any point of time. However, he prays for releasing the share of the mother of the deceased which she is entitled from the post-death benefits.

8. In view of the submissions of the respective parties, this Court is of the considered opinion that now it is well settled that a woman whether she is legally married wife of her husband or not is entitled to the post-death retiral benefits of her husband if there exists a relation between them. As such, in the case at hand, the petitioner-wife along with other legal heirs including the mother of the deceased are entitled to get their respective shares of such benefits.

9. Accordingly, the respondents shall release the terminal benefits of deceased Late Hemanta Kumar Goala in favour of his wife Smt. Prativa Nath Goala, petitioner No.1 herein, his minor child Raj Goala and also to the mother Smt. Chanmoni Goala, who is the unofficial respondent No.7 herein, as per their respective shares in accordance with law within a period of 3(three) months from the date of receipt of the copy of this order.

10. With the above observations and directions, the writ petition is allowed and stands disposed of.

Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Pulak

