

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.34 of 2024

Smt. Dhanantari Chakma

.....Appellant(s);

Versus

The State of Tripura & others

.....Respondent(s).

For Appellant(s) : Mr. T.D. Majumdar, Sr. Advocate,
Mr. Tapash Halam, Advocate.

For Respondent(s) : Mr. Kohinoor N. Bhattacharyya, G.A.,
Mrs. Riya Chakraborty, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Order

29/04/2024

Heard Mr. T.D. Majumdar, learned senior counsel for the appellant and Mr. Kohinoor N. Bhattacharyya, learned Government Advocate for the respondents-State.

2. The son of the writ petitioner-mother was appointed as an Agriculture Assistant (TAFS Gr-III, Group-C) on 28.06.2012. He unfortunately died on 28.08.2013. Petitioner was granted financial assistance to the tune of Rs.75,000/- on 13.07.2015. Petitioner approached the Writ Court with a grievance that no family pension has been granted to her. The learned Writ Court dismissed the writ petition on the ground of delay and laches. Hence, the writ petitioner is in appeal before us.

3. Mr. T.D. Majumdar, learned senior counsel for the writ petitioner/appellant herein, relies upon Rule 54 of the Central Civil Services (Pension) Rules, 1972 as adopted by the State of Tripura, specifically Rule 54- "Contributory Family Pension". Learned senior counsel relies upon Rule

54(2)(a) and also an office memorandum dated 16.08.1999 [Annexure-7] issued by the Finance Department, Government of Tripura on the subject of admissibility of family pension to such parents who are wholly dependent on the government servant (bachelor/unmarried as well as deceased leaving behind neither a widow nor a child) when he/she was alive inclusion thereof in the definition of 'family'.

4. We have taken note of the submission of learned senior counsel for the appellant and the respondents-State.

It appears that claim for pension is a continuing cause of action. As such, the learned Writ Court was not right in rejecting it on grounds of delay and laches. However, on the basis of the pleadings on record, we are not convinced at this stage as to the entitlement of the writ petitioner for family pension in the background facts and circumstances. Be it noted that the new pension scheme has been introduced in the State of Tripura since the year 2018. Apparently the son of the writ petitioner was not covered under the new pension scheme or the contributory pension scheme. Further, whether the petitioner's son had opted for the provident fund scheme and also the group insurance scheme or not before his unfortunate death are not evident from the records of the case. In order to a person to be entitled to pension, there is a requirement of qualifying service. It is also not clear from the records as to whether petitioner was a part of contributory family pension scheme as is indicated under Rule 54 of the CCS (Pension) Rules, 1972. Therefore, in the absence of proper pleadings, we do not deem it proper to render any final opinion on the claim of the petitioner. However, since the writ petitioner is the

unfortunate mother of the son who died within fourteen months of his appointment on the post of Agriculture Assistant (TAFS Gr-III, Group-C), we are inclined to give liberty to the petitioner to make a proper representation with supporting facts and documents before the competent authority to decide her claim in accordance with law. If such representation is made within a period of 3(three) weeks from today, the competent authority under the respondent-department would consider the same in accordance with law within a reasonable time preferably within 12(twelve) weeks thereafter. The instant appeal stands disposed of with the aforesaid observations.

5. Pending application(s), if any, shall also stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ