

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 559 of 2024

Smt. Imala Marak

---Petitioner(s)

Versus

The State of Tripura and 2 Ors.

---Respondent(s)

For Petitioner (s)	:	Mr. A. Acharjee, Advocate.
For Respondent(s)	:	Mr. M. Debbarma, Addl. GA.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

05.09.2024

Heard learned counsel for the parties.

[2] This is a writ petition under Article 226 of the Constitution of India for seeking the following relief(s)

- (i) *Admit this petition;*
- (ii) *Issue notice upon the Respondents;*
- (iii) *Call for the Records; and*
- (iv) *After hearing the parties would be pleased enough to direct the Respondents to provide pension benefit and to provide financial benefit, release of G.P.F, leave salary or other admissible grant or Employment assistance etc. due to the death of the deceased Husband namely Mirendra Marak who has died on 03.06.2015 during his service tenure.(v) After hearing the parties would be pleased enough for quashing or setting aside the memo vide No.F.6(12)-PWD(E-II)/2001(L) dated 07.11.2005 wherein the deceased husband of the petitioner has been dismissed from the service with effect from the date of issue of this order;*
- (v) *After hearing the parties would be pleased enough to direct the Respondents to provide pension benefit and to provide financial benefit, release of G.P.F, leave salary or other admissible grant or Employment assistance etc. due to the death of the deceased Husband namely Mirendra Marak who has died on 03.06.2015 during his service tenure.*

[3] It is the case of the petitioner that the petitioner is the wife of Late Mirendra Marak, who is the Ex-Helper under the Executive Engineer, Udaipur Division, P.W.D (R&B), Udaipur, Gomati Tripura. It is contended by the petitioner that during the service tenure the husband of the petitioner went to his office on 14/02/2005 but on that day surprisingly he was missing from the office and the

deceased husband did not return to his house. On 22/02/2005, the S.D.O (P.W.D) Sub-Division No.1, Udaipur, South Tripura, (Respondent No.2) lodged a missing dairy before the officer in-charge, R.K.Pur P.S. Udaipur, South Tripura (the then) wherein the G.D. entry had been lodged and categorically stated that unauthorized absent of the deceased from Government duties on 14/02/2005 to till today and in this regard the Respondent No-2 has issued the letter vide No. F. ESTT/G/1/SDO-1/PWD/1252-54, Dated 21.02.2005.

[4] Thereafter the respondent No.3, the Chief Engineer P.W.D (R&B), Tripura, Agartala, passed an order by Vide No. Ref.No.F.6 (12) PWD (E-II)/2001(L) dated 07/11/2005, wherein it is categorically stated that the deceased Mirendra Marak was helper in the office of the S.D.O (PWD) Sub-Division, No.1 and also stated that Sri Mirendra Marak, Helper is not known and he is also not available even at the last known address as recorded in his Service Book. Notification was given in News paper vide this Department Memorandum No. F.6 (12)-PWD (E-II)/2001(L) dated 16/09/2005 which was published on 22/09/2005 giving him an opportunity to represent within 15(fifteen) days if he has to say anything in respect of his un-authorized absence from duties.

[5] The said Sri Mirendra Marak, Helper has neither turned up nor represented anything within the stipulated time as mentioned in the aforesaid Memorandum and it is also stated that the Service of the deceased has been dismissed with effect on the date of issue of the order.

[6] It is further contended by the petitioner that the petitioner has submitted one representation dated on 17.12.2022 for getting pensionary benefit compassionate appointment and other financial benefits of deceased husband Late Mirendra Marak (Ex-Helper) who was missing from 14.02.2005 in service tenure and expired on 03.06.2015 and in the representation, the petitioner categorically stated that the

deceased Husband of the petitioner was only earning member of the family and there is no other source of income in the year, 2007 and the petitioner has prayed for financial benefits and compassionate appointment due to the death of her husband as because there was no response after searching everywhere the petitioner was not traceable and was missing from his office but lastly the petitioner applied for death certificate of the deceased and thereafter death certificate was issued on 04.02.2020 and in the death certificate it is categorically stated that the deceased Husband died on 03.06.2015 and it has been issued by registrar (Birth & Death) Village Counsel of Peratia, But till today no response from the side of the Respondents, whether the representation is accepted or rejected till today.

[7] It is also mentioned here that the son of the petitioner namely Binush Marak has also submitted one representation on 17.12.2022 on the similar prayer but the said representation also has not been accepted or rejected till today. Aggrieved thereby, the petitioner has approached this court.

[8] A fair reading of the record shows that the service of the husband of the petitioner was dismissed way back in 2005 and the same is unchallenged till date. It also appears from the record that the husband of the petitioner went to his office on 14/02/2005 but on that day surprisingly he was missing from the office and the deceased husband did not return to his house. It is only in 2023 the petitioner herein went before the respondents for seeking the pensionary benefit. Mr. M. Debbarma, learned Addl. GA has drawn the attention of this Court to the letter dated 08.12.2023 stating that the issue was referred to the Law Department, Government of Tripura and accordingly the Law Department; Government of Tripura opined that "As per Rule 24 of CCS (Pension) Rules, 1972 dismissal or removal of a Government servant from a service or post entails for forfeiture of his past service. Further, as per Rule 41 of the said Rules a Government servant who is dismissed or removed from service shall

forfeit his pension and gratuity. On the other hand, it is also contended by the Addl. GA that if other admissible dues if any, to be paid to the legal heirs of the deceased husband.

[9] In view of the above submission, this court finds force in the argument of respondent counsel that the termination order of the petitioner's husband in 2005 became final as unchallenged and thus the same cannot be ignored and the petitioner is not entitled for the relief sought. Therefore, this Court is of the view that the petitioner herein has not approached this court with clean hands and has failed to make out the case. Stating thus, the instant writ petition is liable to be dismissed. Accordingly, it stands dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.



JUDGE