

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.03 of 2023

The State of Tripura & others

.....Appellant(s);

Versus

Smt. Nupur Das

.....Respondent(s).

For Appellant(s) : Mr. Karnajit De, Addl. G.A.

For Respondent(s) : Mr. T.D. Majumder, Sr. Advocate,
Ms. Rimi Debbarma, Advocate.

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

Order

26/03/2024

Heard Mr. Karnajit De, learned Additional Government Advocate for the appellants-State and Mr. T.D. Majumder, learned senior counsel appearing for the writ petitioner/respondent herein.

2. The appellants-State is aggrieved by the impugned direction dated 29.11.2022 passed by the learned Single Judge in WP(C) No.867/2022 whereby the learned Writ Court has directed the official respondents to complete all formalities to sanction and release the special family pension in favour of the writ petitioner within four weeks from the date of receipt of copy of that order.

3. It is the case of the appellants that the deceased mother of the writ petitioner was a Group-D employee working on the post of Peon who died on 27.04.2019. Writ petitioner was married for 14 years and finally divorce was granted through mutual consent under Section 13(B) of the Hindu Marriage Act, 1955 by the learned Family Court, Agartala, West Tripura in T.S. (Divorce) 576/2021 on 14.02.2022, approximately two and a half year after the

death of the employee. This fact in itself clearly indicates that the writ petitioner was not dependent upon her mother. Apart from that, reliance is placed upon the office memorandum dated 26.10.2022 issued by the Department of Pension & Pensioners' Welfare under the Ministry of Personnel, PG & Pensions, Government of India on the subject of family pension under Central Civil Services (Pension) Rules, 2021 to unmarried or widowed or divorced daughter of a deceased Government servant/pensioner. It is submitted that as per the said circular, an unmarried or widowed or divorced daughter of a deceased Government servant/pensioner, who is not earning her livelihood, is eligible for family pension beyond the age of twenty-five years for life or until she gets married or re-married or until she starts earning her livelihood, whichever is the earliest, subject to the enumerated conditions one of which is that the unmarried or widowed or divorced daughter was dependant on her parent or parents when he or she or they were alive.

4. Mr. Karnajit De, learned Additional Government Advocate for the appellants-State, submits that petitioner/respondent herein could not produce the dependency certificate in her favour for obvious reasons. There are other brothers and sisters of the writ petitioner born out of the deceased employee. Simply granting no objection by them would not entitle the writ petitioner to claim special family pension when at the time of death of the employee, her status was that of a married daughter. In such circumstances, the learned Writ Court committed an error in directing sanction and release of special family pension in favour of the writ petitioner only guided by the fact that the other siblings of the writ petitioner had given a no objection, and the petitioner and

her husband had settled their dispute through mutual consent and petitioner and private respondent had withdrawn criminal cases. Therefore, the appellants-State is in appeal.

5. Mr. T.D. Majumder, learned senior counsel for the writ petitioner/respondent herein, submits that the appellants have taken a new ground to question the eligibility and entitlement of the writ petitioner for special family pension though at the time of consideration, they had only asked for no objection from other claimants/dependants along with her application for special family pension. The impugned decision is, therefore, proper in the eye of law and does not warrant any interference.

6. On consideration of rival submission of the parties and after taking note of the relevant material pleadings and documents relied upon by them, we are of the considered view that the decision to grant special family pension is dependent upon not only no objection from other claimants but also other factors such as proof of dependency of the widowed or divorced daughter upon the deceased employee and the conditions stipulated in the circular and the guidelines prescribed by the government governing the issue at hand. It appears that the learned Writ Court had straightway directed the official respondents to sanction and release the special family pension in favour of the writ petitioner being guided by the fact that the family dispute between the petitioner and the private respondent has been settled and they have agreed to withdraw the criminal cases, and that the writ petitioner is now divorced. However, it seems that the learned Writ Court has not taken into account other factors which may

be germane for taking a decision on the claim of the petitioner/respondent herein.

7. In such circumstances, we deem it proper to interfere in the impugned directions passed by the learned Writ Court to the extent that the official respondents would consider the claim of the writ petitioner/respondent herein taking into account all germane facts and the relevant circulars applicable to the issue at hand in accordance with law. Let such consideration be made within a period of 4(four) months from the date of receipt of copy of this order. We leave it to the official respondents to consider whether any inquiry in respect of factual claims is required to be made for such consideration.

8. The instant appeal stands disposed of with the observation and direction as indicated above.

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

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ