

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.21 of 2025

Smt. Pramila Goswami & another

.....Appellant(s);

Versus

The State of Tripura & others

.....Respondent(s).

For Appellant(s) : Mr. Sankar Lodh, Advocate,
Mr. Subham Majumder, Advocate.

For Respondent(s) : Mrs. Riya Chakraborty, Advocate.

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

Order

17/03/2025

Appellant No.1 is the widow of the deceased employee namely Late Biswajit Sharma. In lieu of his death, she got compassionate appointment on the post of Lower Division Clerk. She approached the learned Writ Court for disbursement of pension, gratuity, leave encashment and other service benefits of the deceased employee as the same were withheld for considerable period. The learned Writ Court disposed of the writ petition directing the petitioner to submit a representation to the official respondents in terms of letter dated 13.01.2025 [Annexure-E to the Counter Affidavit] whereby the petitioner and the mother-in-law/respondent No.3 were asked to submit an undertaking in Non-judicial e-Stamp declaring whose name would be considered for family pension and payment of other pensionary benefits as per Survival Certificate of the deceased Biswajit Sharma, an Ex-Class-IV (Ad-hoc Lower Division Clerk). The letter further indicated that upon submission of the undertaking, the matter would be sent to the Accountant General (A&E), Tripura for necessary

direction and guidelines regarding settlement of family pension and payment of other pensionary benefits. This letter was issued after filing of the writ petition.

2. Appellant No.2 is the minor daughter of the deceased employee living with Appellant No.1-widow mother. Learned counsel for the appellants submits that respondent No.3 despite notice did not appear before the learned Writ Court. The learned Writ Court directed the official respondents to pass a speaking order in accordance with law within a period of two months from the date of receipt of such representation and extend the benefits to the petitioners and respondent No.3 as per their respective shares, rights and entitlements. The petitioners, being aggrieved, have preferred this writ appeal.

3. Learned counsel for the appellants submits that the CCS (Pension) Rules, 1972 as amended specifically Rule 54 sub-rule (11) entitles only the surviving spouse to get family pension. Appellant No.1 is in dark as to whether the deceased employee had made any nominations in favour of appellant No.1-wife or his mother/respondent No.3 in respect of other death cum retirements. In view of the legal position, the mother of the deceased employee would not be entitled to family pension if the widow and children of the deceased employee survive. The Deputy Director of Agriculture has, without taking note of the rule position, unnecessarily asked the appellant-widow and the mother of the deceased/respondent No.3 to submit an undertaking. Even if the deceased employee had made nomination in respect of any other admissible service /death cum retirement benefits in favour of anyone, nomination in itself would not entail accrual of those benefits in favour of the nominee. Such benefits have

to be disbursed as per the legal entitlement to the concerned heirs. The competent authority under the respondent-department instead of taking an informed decision in the matter as per the existing rules and the relevant service records of the employee not only asked the appellant No.1 and respondent No.3 to submit an undertaking, but has also indicated that it is awaiting guidelines from the office of the Accountant General. The authority to take a decision on such claim is not the Accountant General. It is the sanctioning authority of the department. Petitioners have, therefore, preferred this writ appeal as no purpose would be served if the petitioners/appellants herein responds to the letter dated 13.01.2025 [Annexure-E] asking the widow/appellant No.1 to submit an undertaking.

4. Learned counsel for the respondents-State submits that the learned Writ Court has not committed any error in asking the petitioner/appellant herein to submit a representation in respect of her legal claims before the department. She however also does not dispute that it is the competent authority under the department which is required to take a decision on the claim of the appellant or any other legal heir of the deceased employee. She submits that therefore the impugned order may not be disturbed.

5. On consideration of rival submission of the parties at this stage, we are of the view that the competent authority/the respondent No.2 under the Department of Agriculture and Farmers' Welfare, Government of Tripura is required to take a decision on the claim of the appellant No.1 on disbursement of family pension and other service benefits since it is the sanctioning authority.

Only upon issuance of such sanction order same is to be forwarded to the office of the Accountant General. In such circumstances, though the learned Writ Court has also directed the appellant to submit a representation in response to the letter dated 13.01.2025, but we are of the view that the issue of entitlement of the appellants or any other legal heir should not be confined to the communication made by the Deputy Director, Agriculture vide letter dated 13.01.2025. For issue of family pension, such an undertaking may not be the requirement in law as per the applicable pension rules. For grant of other service/death cum retirement benefits such as gratuity, leave encashment, etc, the extant rules or the standing instructions in the government would be applicable. In such circumstances, we are inclined to modify the direction passed by the learned Writ Court at this stage since the question of determination of the entitlement of the appellants of various service benefits including family pension is required to be taken by the employer first. In case the decision is not in consonance with law, the same can be subjected to judicial scrutiny. Therefore, appellant No.1 is granted liberty to approach the respondent No.2 with a representation in respect of the aforesaid claims. The representation should also annex the copy of the memo of writ appeal with the annexed documents and the stand of the State Government contained in their Counter Affidavit. The competent authority/respondent No.2- Director, Department of Agriculture and Farmers' Welfare would take a decision on such representation in accordance with law within a period of 12(twelve) weeks from the date of receipt of copy of this order. It will be open for the respondent No.2 to also allow opportunity to respondent No.3-mother of the deceased

employee to file any objection in respect of the claim of the appellants and representation in support of her own claim.

6. The instant writ appeal stands disposed of without making any observations on the merits of the case of the parties. Pending application(s), if any, shall also stand dispose of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ



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