

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.618 of 2024**

Sri Karan Sarkar,
son of Late Kanti Sarkar
of Village-Hapania, Durgapara,
P.O. ONGC, P.S. Amtali,
District – West Tripura, Pin- 799014

---- Petitioner(s)

Versus

1. The State of Tripura,
represented by the Chief Secretary,
Government of Tripura, New Secretariat Building,
New Capital Complex, P.O. Kunjaban, Agartala,
West Tripura

2. The Principal Secretary,
Department of Home, Government of Tripura,
New Secretariat Building, New Capital Complex,
P.O. Kunjaban, Agartala,
West Tripura

3. The Director General of Police,
Government of Tripura, Police Headquarter,
Fire Brigade Chowmuhani, Agartala, P.O. Agartala,
P.S. West Agartala, District- West Tripura,
Pin- 799001

4. The Inspector General of Police,
T.S.R., P.H.Q., Fire Brigade Chowmuhani,
Agartala, P.O. Agartala, P.S. West Agartala,
District-West Tripura, Pin- 799001

5. The Commandant,
1st Bn, Tripura State Rifles,
Gakulnagar, Sepahijala,
P.O. Bishalgarh, District- Sepahijala

6. The Accountant General (A & E),
Kunjaban, Agartala, P.O. Kunjaban,
P.S. N.C.C., District- West Tripura

7. Smt. Sita Rani Bhowmik (Sarkar),
wife of Late Kanti Sarkar,
resident of Village-Karailong,
P.S. Teliamura, P.O. Teliamura,
District- Khowai, State-Tripura

8. Smt. Bidhiya Sarkar, (Minor)
daughter of Late Kanti Sarkar,
resident of Village-Karailong, P.S. Teliamura,
P.O. Teliamura, District- Khowai, State-Tripura
(respondent No.8 is a minor, as such the
respondent No.7 her natural mother has been

representing the respondent No.8)

9. Smt. Urmila Sarkar,
daughter of Late Kanti Sarkar,
wife of Sri Raju Sutradhar,
resident of Village-Karailong,
P.S. Teliamura, P.O. Teliamura,
District- Khowai, State-Tripura

----Respondent(s)

For Petitioner(s)	: Mr. Anjan Kanti Pal, Adv. Mr. T.K. Bhattacharjee, Adv.
For Respondent(s)	: Mr. Kohinoor N Bhattacharjee, G.A. Mr. Bibhal Nandi Majumder, Sr. Adv. Mr. Debalay Bhattacharya, Sr. Adv. Mr. Soumyadeep Saha, Adv. Mr. Samrat Sarkar, Adv.
Date of Hearing	: 21.07.2025
Date of Judgment & Order	: 28.07.2025
Whether fit for reporting	: YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This writ petition is filed by the petitioner for releasing all financial benefits like leave salary, gratuity, GPF, Group Insurance etc. of his deceased father who expired on 16.08.2023 during his service tenure and his deceased father Kanti Sarkar was an employee in the capacity of Enrolled Follower i.e. Group-D employee and he was posted under the control of respondent No.5 i.e. Commandant, 1st Bn, TSR, Gakulnagar, Bishalgarh, Sepahijala District, Tripura.

[02] Heard Mr. A.K. Pal, Learned counsel along with Mr. T.K. Bhattacharjee, Learned counsel appearing on behalf of the petitioner. Also heard Mr. Kohinoor N Bhattacharjee, Learned G.A. appearing on behalf of the respondent Nos.1 to 5 and Mr. D. Bhattacharya, Learned senior counsel appearing on behalf of the respondent No.6 and Mr. B.N. Majumder, Learned senior counsel appearing on behalf of the respondent Nos.7 to 9.

[03] At the time of hearing, Mr. A.K. Pal, Learned counsel appearing on behalf of the petitioner drawn the attention of the Court that his father Kanti Sarkar was serving as an Enrolled Follower under respondent No.5 who in course of his tenure of service expired on 16.08.2023 leaving behind him and the respondent Nos.7, 8 & 9 of this writ petition as his only sole legal heirs. It was further submitted that after the death of his father he approached to the respondent No.5 on 14.02.2024 to release the financial benefits to the extent of his share but the respondent No.5 did not consider his representation and under compelling circumstances he preferred this writ petition.

[04] On the other hand, the respondents have contested the petition by filing their separate counter affidavits. The respondent Nos.1 to 5 denied the assertions of the petitioner in the writ petition and submitted that the deceased executed nomination form in respect of his wife and minor daughter and as such, basing upon the nomination, they have released the financial benefits and in support of the counter affidavit the said respondents submitted some documents.

[05] Mr. D. Bhattacharya, Learned senior counsel appearing on behalf of the respondent No.6 submitted that the said respondent is only discharging the duties of authorization of pensionary benefits and no pension proposal so far have been received by the said respondent.

[06] Mr. B.N. Majumder, Learned senior counsel appearing on behalf of the respondent Nos.7 to 9 also filed their separate counter affidavit and submitted that the present petition is not maintainable and relying upon some documents, the said respondents submitted that the petitioner is presently aged about 25 years and furthermore, the marriage of his mother namely Smt. Mithu Sarkar (Bhattacharjee) was divorced by an order of the Court in connection with Case No.T.S.(Div.)18 of 2005 and thereafter, the deceased father of the petitioner married the respondent No.7 and during his life time, he executed all the nomination forms like family pension and other matters

and as such, the petitioner is not entitled to any relief/reliefs in this writ petition.

[07] At the time of hearing, Mr. A.K. Pal, Learned counsel appearing on behalf of the petitioner relying upon Rule 51 of the CCS Pension Rules, 1972 drawn the attention of the Court that the petitioner is entitled to the admissible benefits in respect of his deceased father to the extent of his share.

[08] On the other hand, Mr. Kohinoor N Bhattacharjee, Learned G.A. submitted that since the deceased during his life time executed some nomination forms in respect of family pension, DCRG and other matters and as such, the department is bound to release the benefits in favour of respondent No.7 in pursuance of said nomination forms.

[09] Learned senior counsel, Mr. D. Bhattacharya submitted that the petitioner has not come before the Court with clean hands.

[10] Learned senior counsel, Mr. B.N. Majumder appearing on behalf of the respondents No.7 to 9 first of all drawn the attention of the Court referring Annexure-3 i.e. the notification dated 02.03.2019 of the Government of Tripura regarding compassionate appointment and submitted that a married son if lives separately from other members of the family shall not be considered as a family member. Here in the case at hand, the petitioner since 2005 is residing separately along with his mother who was granted divorce by his father during his life time in connection with Case No.T.S.(Div.)18/2005 and he was never dependent upon his deceased father during his life time and by this time he has got married and residing separately deducting/striking out his name from the family ration card and as such, he is also not entitled to other service benefits of his deceased father. He further submitted that in view of Rule 50, 51 and 53 of the CCS Pension Rules, 1972 since his father made a valid nomination in favour of his second wife i.e. respondent No.7 in this writ petition and as such, he(petitioner) is not entitled to any death/retirement benefit. In respect of GPF he submitted that in view of the General Provident Fund (Central Services) Rules, 1960 as per Rule 33(i)(a) when a subscriber

dies leaving a family, and a valid nomination has been made in accordance with the provisions of Rule 5 in favour of a family member in that case except nominee, any other person cannot claim the amount. As such the petitioner is not entitled to get the benefit as prayed for.

In respect of Group Insurance, Learned senior counsel further submitted that since there was clear valid nomination in this regard and as such, the present petitioner is also not entitled to any benefit from the amount left by his deceased father.

But in respect of earn leave salary and Group Insurance Learned senior counsel submitted that as per calculation of Department the leave salary comes to Rs.2,16,720/- and Group Insurance comes to Rs.1,80,000/- which in total comes to Rs.3,96,720/-, the petitioner being the step son of the deceased is entitled to 1/4th share which comes to Rs.99,180/- only and as such, Learned senior counsel fairly submitted before the Court to pass appropriate order in this regard.

[11] This present petition was travelled for a quite considerable period and considering the nature of dispute, the matter was referred to the Mediation Centre but no settlement could be arrived at and finally, the hearing took place. From the calculation of the contesting respondents it appears that the following amount came in respect of service benefits left by the deceased :

Leave Salary :	Rs.2,16,720/-
Gratuity :	Rs.6,93,000/-
Family Pension :	Rs.18,900/- + 500(Medical)
Group Insurance :	Rs.1,80,000/-
G.P.F. :	Rs.5,62,000/-
G.P.F.(Insurance) :	Rs.10,000/-

The respondent Nos.1 to 5 in their counter affidavit in para No.7 submitted that the following financial benefits have already been paid to the step-mother of the petitioner Smt. Sita Rani Bhowmik as first surviving member as per survival certificate :

- (i) Leave salary Rs.2,02,860/-.**
- (ii) Pension Rs.15,750/- per month.**
- (iii) DCRG Rs.6,61,500/-.**
- (iv) GPF sanctioned Rs.5,99,265/- by the AG(A&E). Tripura but payment is pending due to objection.**

(v) GIS proposal already sent to DM & Collector, Sepahijala.

[12] It is also further mentioned that the pension and DCRG has been sanctioned/released by the AG(A&E), Tripura vide PPO No.142445905 and GPO No.122445905 in favour of Smt. Sita Rani Bhowmik(Sarkar) i.e. Respondent No.7. The AG(A&E), Tripura while releasing pension and DCRG, did not mention about the share of pension/DCRG in respect of other surviving members including the petitioner. Besides leave salary amounting to Rs.2,02,860/- has been sanction in favour of Smt. Sita Rani Bhowmik (Sarkar) by the office of respondent No.5 on the basis of affidavit furnished by Smt. Sita Rani Bhowmik (Sarkar) vide No.12 dated 02.02.2024 and the said affidavit has been received by the office vide receipt No.0858 dated 03.02.2024. In the affidavit it was mentioned that if any surviving members of the deceased Kanti Sarkar raised objection, in future she shall be bound to return the part of share. It was further mentioned that in the petition dated 14.02.2024 the petitioner did not mention that his step-mother denied payment of the share of the pensionary benefit or not. However, the respondent No.5 already directed Smt. Sita Rani Bhowmik to pay the share of leave salary to her step son and other survivors immediately.

[13] To address the issues regarding entitlement now let us discuss/see about the relevant provisions of the connected Rules :

Rule 51(1)(a) of CCS Pension Rules, 1972 provides that :

51. Persons to whom gratuity is payable

(1)(a) The gratuity payable under Rule 50 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by means of a nomination under Rule 53.

Rule 53 of CCS Pension Rules, 1972 further provides :

53. Nominations

(1) A Government servant shall, on his initial confirmation in a service or post, make a nomination in Form 1 or 2, as may be, as appropriate in the circumstances of the case, conferring on one or more persons the right to receive the [retirement gratuity/death gratuity] payable under Rule 50 :

Provided that if at the time of making the nomination-

(i) the Government servant has a family, the nomination shall not be in favour of any person or persons other than the members of his family; or

(ii) the Government servant has not family, the nomination may be made in favour of a person or persons, or a body of individuals, whether incorporated or not.

Further, Sub-Rule 6 of Rule 50 of the CCS Pension Rules, 1972 also provides as under :

(6) For the purpose of this rule and Rules 51, 52 and 53, 'family', in relation to a Government servant, means –

- (i) wife or wives including judicially separated wife or wives in the case of a male Government servant,**
- (ii) husband, including judicially separated husband in the case of a female Government servant,**
- (iii) Sons including stepsons and adopted sons,**
- (iv) unmarried daughters including stepdaughters and adopted daughters,**
- (v) widowed daughters including step daughters and adopted daughters,**
- (vi) father,**

Including adoptive parents in the case of individuals whose personal law permits adoption

- (vii) mother,**
- (viii) ~~brothers~~ brothers below the age of eighteen years including stepbrothers,**
- (ix) unmarried sisters and widowed sisters including stepsisters,**
- (x) married daughters, and**
- (xi) children or a pre-deceased son.**

On perusal of the aforesaid Rules 51(a) it appears that if the government servant made a valid nomination, in that case, gratuity shall be paid to the nominated individual. Here in the case at hand on perusal of the relevant documents being produced by Learned G.A. as directed by this Court it appears that the deceased during his life time made nomination in respect of DCRG in favour of his second wife i.e. respondent No.7 and the minor daughter i.e. respondent No.8. As such, those two are entitled to get the benefits of DCRG as per Rule.

Situated thus, the present petitioner is not entitled to get the benefit of death/retirement gratuity from the entitled amount accrued by the deceased.

[14] Now, in respect of Provident Fund let us see the relevant provisions of Rule. In this regard as per Rule 33 of the General Provident Fund (Central Service) Rules, 1960 it provides that when a subscriber dies leaving his family, and a valid nomination has been made in accordance with the provisions of Rule 5 in favour of a family member, the amount standing to the credit in the Provident Fund is payable to the nominee to the exclusion of all others.

Learned senior counsel in course of hearing further submitted that since the deceased made nomination in favour of respondent No.7 and the minor daughter and as such, the present petitioner is also not entitled to any share from that amount.

Now, for the sake of convenience let us see herein below the relevant provision of Rule 33(i)(a) :

33. Procedure on death of a subscriber

On the death of a subscriber before the amount standing to his credit has become payable, or where the amount has become payable, before payment has been made :

(i) When the subscriber leaves a family –

(a) if a nomination made by the subscriber in accordance with the provisions of Rule 5 in favour of a member or members of his family subsists, the amount standing to his credit in the Fund or the part thereof to which the nomination relates shall become payable to his nominee or nominees in the proportionate specified in the nomination;”

Further Rule 5(1) of the said Rule provides ‘Nominations’ which is as under :

“5. Nominations

(1) A subscriber shall, at the time of joining the Fund, send to the Accounts Officer through the Head of Office, a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the Fund in the event of his death, before that amount has become payable or having become payable has not been paid:

Provided that where a subscriber is a minor, he shall be required to make the nomination only on his attaining the age of majority:

Provided further that a subscriber who has a family at the time of making the nomination shall make such nomination only in favour of a member or members of his family:

Provided further that the nomination made by the subscriber in respect of any other Provident Fund to which he was subscribing before joining the Fund shall, if the amount to his credit in such other fund has been transferred to his credit in the Fund, be deemed to be a nomination duly made under this rule until he makes a nomination in accordance with this rule.”

From the aforesaid Rules it appears that in the case at hand the deceased also during his life time executed nomination in favour of respondent Nos.7 and 8 and as such, the present petitioner is not entitled to any share as prayed for in respect of Earned Leave Salary.

Similarly in respect of GPF Insurance the deceased also executed nomination form in favour of respondent Nos.7 and 8 being minor and as such, the present petitioner is also not entitled to any share from the said amount left/accrued by the deceased.

[15] In course of hearing of argument, Learned counsel for the petitioner could not place any material to discard the submission made by Mr.

B.N. Majumder, Learned senior counsel appearing on behalf of the respondent Nos.7 to 9 save and except referring one judgment passed by a Coordinate bench of this High Court in WP(C)No.515/2017, the subject matter of the said judgment differs from the facts of the present case and as such, the same cannot be applied in this case.

[16] Now, regarding Group Insurance and Leave Salary only the petitioner is entitled to 1/4th share of the accrued amount. From Annexure-R/1 it appears that the State also relied upon survival certificate from which it appears that the petitioner is one of the legal heirs of deceased Karan Sarkar. From Annexure-R/2 it appears that Rs.2,02,860/- has already been released in favour of respondent No.7. However, GPF amount although sanctioned but not yet been released due to objection raised by the petitioner. Regarding compassionate appointment the petitioner will not be entitled to any employment since he is presently married and aged about 25 years and living separately along with his wife at Haphania, Durgapara and he has also in his affidavit mentioned his age at the time of filing the writ petition before the Court on 07.09.2024. Furthermore since regarding family pension nomination has already been made by the deceased during his life time in respect of respondent Nos.7 and 8 being minor and as such, the petitioner is also not entitled to get any amount from the family pension as his case does not fall under the purview of Rule.

Now, from the aforesaid discussions it appears that the present petitioner is only entitled to 1/4th share from earn leave salary and group insurance and as such, the respondent No.5 being the authority of the deceased employee is to ensure that the proportionate share of the petitioner is released in his favour. The respondent No.7 although executed one affidavit but she did not abide by the terms and conditions made in the affidavit executed by her on 02.02.2024 on the basis of which the respondent No.5 released the service benefit accrued by the deceased in favour of respondent No.7.

[17] With this observation the present writ petition stands disposed of with the following observations :

That the respondent No.5 being the controlling/disbursal authority of the deceased Karan Sarkar shall ensure release of 1/4th share in respect of Earn leave salary and group insurance in favour of the present petitioner if necessary by deducting from the withhold amount as mentioned in para No.7 of the counter affidavit filed by the State-respondents. The amount to be calculated by the said respondent in respect of the accrued amount of the deceased employee as the respondent No.7 failed to pay the entitled amount to the petitioner, within a period of 2(two) months from the date of delivery of judgment. The petitioner herein shall submit one representation along with a copy of this judgment to the respondent No.5 for immediate compliance within a period of 7(seven) days after receipt of a copy of this judgment. The relevant file of the Department be restored accordingly to the Department through Learned G.A. along with a copy of the judgment/order.

The case is thus disposed of.

Pending application/s, if any, also stands disposed of.

JUDGE

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