

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 458 OF 2011

Smti. Rashmani Sarkar,
W/O. Late Gopal Sarkar (Ex Skilled Worker),
Resident of Village- Bairagi Para,
P.O.- Ishanpur, P.S.- Sidhai,
District- West Tripura.

.....**Petitioner.**

VERSUS

1. Tripura Tribal Areas Autonomous District Council,
Represented by its Chief Executive Officer,
having its Office at Khumulwng, P.O.- Khumulwng,
P.S.- Jirania, District – West Tripura.
2. The Executive Officer (Administration),
Tripura Tribal Areas Autonomous District Council,
Represented by its Chief Executive Officer, having
its Office at Khumulwng, P.O.- Khumulwng,
P.S.- Jirania, District- West Tripura.

..... **Respondents.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner : Mr. T.D. Majumder, Advocate,
Mr. K.K. Pal, Advocate.

For the respondents : Mr. R. Chakraborty, Advocate.

Date of hearing and
delivery of judgment : **28.7.2015.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, C.J.)

The petitioner, by means of this petition, has prayed for family pension in terms of the CCS (Pension) Rules, 1972.

2. The undisputed facts are that her husband joined the Tripura Tribal Areas Autonomous District Council (hereinafter referred to as "TTAADC") as skilled worker on 3.12.1987 though it is alleged that prior to that he was working for some time as contingent worker. Unfortunately, Sri Gopal Sarkar, husband of the petitioner, expired on 26.08.1994.

3. The petitioner claimed pension but the same was denied to her on the ground that the CCS (Pension) Rules, 1972 were made applicable to the respondent-TTAADC w.e.f 01.01.1995 and since the husband of the petitioner had died prior to the said date the petitioner is not entitled to any pension.

4. In the writ petition, the petitioner made specific reference to the fact that one Smti. Baijayanti Sinha whose husband Sri Surjya Kumar Sinha had expired on 14.02.1994 had been granted pension in the year 2007 and this pension had been denied to the petitioner.

5. In reply to this averment, the reply of the respondent is that the petitioner has approached this Court after long delay and, therefore, family pension cannot be allowed to her legal heirs.

6. We cannot have two sets of rules for employees in the same establishment. Sujya Kumar Sinha died on 14.02.1994 i.e. prior to the husband of the petitioner who died on 26.08.1994. If pension has been paid by the department to Smt. Baijayanti Sinha, we see no reason why pension should also not be paid to the petitioner.

7. We accordingly allow the writ petition and direct the respondents to pay pension in accordance with Rule 54 of the CCS (Pension) Rules to the petitioner. The pension shall be calculated keeping in view the emoluments on the date of death of Sri Gopal Sarkar and the D.A. shall be worked out accordingly but the arrears of pension shall be paid only w.e.f. 16.11.2008 i.e. three years prior to the date of filing of the petition because the claim for arrears prior to that date is totally time barred.

8. The amount of arrears w.e.f. 16.11.2008 till date along with the other retrial benefits, if any, shall be paid to the petitioner latest by 30th November, 2015 along with interest @ 9% per annum from today. In case, the amount is not deposited within three months then the rate of interest shall be 12% per annum and not 9% per annum.

9. The writ petition is disposed of in the aforesaid terms.

JUDGE

CHIEF JUSTICE