

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19918 of 2021

Paresh Chandra Mondal
Vs.
The Union of India & Ors.

Mr. Saibal Acharya
Mr. Ambu Bindu Chakraborty
Ms. Mrinmoyee Roy Chowdhury
... For the petitioner

Mr. Tilak Mitra
... For Union of India

The petitioner's brother – Manik Mondal – was an employee under the Government of India, Ministry of Finance, Income Tax Department. The said Manik Mondal died on 30th September, 2019. At the time of death, Manik Mondal was a bachelor.

Under the provisions of Section 8 of the Hindu Succession Act, 1956, the Class-I heirs of a male deceased include the wife, son, daughter, son and daughter of a pre-deceased son and daughter and the mother. Brother comes under Class-II heirs.

The petitioner says that he is entitled to claim dues of the deceased employee – Manik Mondal – on account of General Provident Fund (in short "GPF") applicable to Central services as a nominee. The role of nominee and the claim under succession is different.

It appears from the writ petition that the mother of Manik Mondal has died on 29th June, 1999, i.e., predeceased Manik Mondal. The claim of the petitioner either as a legal heir or his right to collect the money as a nominee of the deceased employee is “pertaining to service” of a Government servant according to my understanding. The petitioner’s claim, therefor, falls under Sections 14(1)(b)(iii) and 14(1)(c) of the Administrative Tribunals Act, 1985. Although, the petitioner says that he not being an employee can maintain the writ petition before this Court but the same is not acceptable to this Court.

In that view of the matter, this Court lacks the jurisdiction to receive, try and determine the instant writ petition with regard to the claim made therein at the instance of the writ petitioner.

The writ petition is, therefor, dismissed as withdrawn.

Dismissal of this writ petition, however, will not prevent the petitioner from making the selfsame claim before an appropriate forum, if permissible in law.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)