

73.
27.4.2023
S.D.

W.P.A. 21623 of 2022

**Nani Bala Das
Vs.
Union of India & Ors.**

Mr. Tapas Kumar Bhattacharya
Mr. Aviroop Bhattacharya
Mr. Bishnu Prasad Singha Roy

..For the Petitioner

Mr. Kalidas Saha

...For the U.O.I.

The petitioner has claimed family pension on account of death of her husband who was an ex-employee of Dredging Corporation of India (DCI). The petitioner's husband joined his services on June 10, 1991. He died on March 29, 2000, admittedly before completion of 10 years of service. An office order was issued by the Deputy (P&A), DCI on April 15, 2000. By the said office order, it was intimated that the petitioner's husband was declared to be permanently '**unfit**' with effect from March 21, 2000 and his name was deleted from the rules of DCI with effect from March 21, 2000. Admittedly, the said document was received by the petitioner and the petitioner chose not to make any representation or challenge the said document.

An application for compassionate appointment of her son was made on April 27, 2000 after receipt of the office order dated April 15, 2000. The said prayer was not accepted by the authorities concerned.

The petitioner made a prayer for grant of family pension in 2022 and by a communication dated April 25, 2022, the Joint Manager (HR) requested the petitioner to forward the supporting documents.

The petitioner made a request for payment of family pension on April 9, 2022, almost two decades after she was informed on April 15, 2000 that her husband was discharged from service and his name stood deleted from the rolls of the Corporation.

Mr. Bhattacharya, learned counsel appearing on behalf of the petitioner submits that since the husband of the petitioner died before completion of 10 years of service, the petitioner was eligible/entitled to payment of family pension under the Employees' Pension Scheme, 1995.

Mr. Saha, learned counsel appearing on behalf of the respondents submits that the petitioner was aware of the fact that her husband was discharged from the service during his lifetime and chose not to challenge the said order, which was passed in 2000. After 22 years in 2022, she has made an

application for grant of family pension and the same is not maintainable.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the petitioner's claim is defeated by inordinate delay, laches and acquiescence on her part. A beneficial reference may be made to the decision reported (1995) 4 SCC 683 (**State of Maharashtra vs. Digambar**).

The petitioner was informed by the respondent authorities on April 15, 2000 that her husband has been discharged from service. The said letter was addressed to the petitioner's husband, but since he had passed away by that time, it was admittedly received by the petitioner. The petitioner thereafter made an application for compassionate appointment of her son. The petitioner had several opportunities to bring on record the fact that the death of her husband occurred and was informed prior to her receipt of such letter. The same was not done by the petitioner.

The petitioner after hiatus of 22 years has prayed for release of family pension. Such a prayer cannot be allowed.

This Court finds no arbitrariness or perversity in the decision making process of the respondent authorities in not granting family pension to the petitioner since her husband

did not complete 10 years of pensionable service before deletion of his name from the rolls.

In the light of the discussions above, **W.P.A. 21623 of 2022 is dismissed.**

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

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

(Lapita Banerji, J.)