

**29.03.
2023**

Ct. No. 04

Ab

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.**

WP.CT 138 of 2022

**Shanti Devi and another
Vs.
Union of India and others.**

**Ms. Tanushree Dasgupta,
Ms. Komal Shaw.**

... for the petitioners.

**Mrs. Aparna Mukherjee,
Mr. Ramen Bose.**

... for the Union of India.

The tribunal application is dismissed solely on the ground that the Tribunal lacks jurisdiction in respect of the cause of action pleaded in the said application.

The Tribunal perceived wrongly that the cause of action pleaded in the said tribunal application relates to an assessment of the rent compensation in respect of an official residential quarter, as the employee wrongfully and illegally overstayed therein and did not vacate the same.

Our attention is drawn to various paragraphs of the application and the relief claimed therein. Upon reading the averments as well as the relief claimed therein, it appears that the cause of action pleaded therein relates to non-disbursement of the pensionary benefits and other dues admissible to the Government employee after he was made to retire compulsorily. It has got no nexus so far as the rent compensation or determination of the damages and/or mesne profit for overstay in official residential quarter.

The definition of service matter given in Section 2(q)

of the Administrative Tribunals Act, 1985 imbibed any matter relating to remuneration including the allowances, pension and other retiral benefits of an employee, who is connected with the affairs of the Union or the State. Since the claim was restricted on the pensionary and other service benefits, which had not been disbursed to the employee, who died subsequently, and also to grant a family pension, there is no nexus or connection with the ascertainment and/or determination of the damages being a rent compensation.

The cause of action, which is distinct and separate, cannot be assumed or bring within the zone of consideration when the petitioners have not claimed any relief thereupon. It appears to us that the manner in which the tribunal application was dismissed is contrary to the spirit and provisions of the said Act and, therefore, cannot be sustained.

The order impugned is set aside.

Since the Tribunal has not gone into the merit and proceeded to dismiss the application on such technical ground, the matter is remitted to the trial court to consider the same on merit after affording an opportunity of hearing to the respective parties and shall dispose of the same within four weeks from the date of communication of this order in accordance with law.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

