

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

07 22.7.2025  
Sc Ct. no.2

**WPA 876 OF 2023**

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Mahabutun Anesha Bibi

Vs.

Union of India & Ors.

Mr. Rahul Karmakar  
Mr. Iftekar Munshi  
Mr. Rishabh Ahmad Khan.

....For the Petitioner

Mr. Ashok Kumar Jena

.... For the Respondent  
Port Trust Authority

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Rahul Karmakar, learned Advocate appears for the petitioner.

Mr. Ashok Kumar Jena, learned Advocate appears for the Port Trust Authority.

The solitary grievance in this writ petition is that the widow daughter claims Family Pension, as the deceased father was an employee of the Port Trust Authority.

The deceased employee died on **January 01, 1999**. Then the widow being the mother of the present petitioner received Family Pension. Thereafter the widow died on **November 16, 2011**. The husband of the petitioner died on **October 13, 2009**, the Death Certificate of the

husband of the petitioner is at **page 43** to the writ petition. The petitioner then applied for Family Pension on **July 12, 2019** at **page 23** to the writ petition.

The claim of the petitioner was rejected by the impugned communication dated **November 29, 2022** by the Port Authority with the following observation :

*“ Reference above, this is to inform you that this office has received Family Declaration card from the concerned department i.e. D.M.D. On security of the documents it has been observed that ex-employee Late Sk. Nazir Ali had declared the name of his wife, two sons and two daughters in Family Declaration card as his nominee. But he never declared you as his daughter. Also, you have not forwarded any reply in reference to this office letter dated 28.08.2019 from your end or could produce any acceptable documents in support of your claim, like acceptable Birth Registration Certificate from Competent Authority, nomination papers declared by the ex-employee etc. Therefore, it is very difficult for this office to consider you as daughter of ex-employee as claimed apart from the name of nominee declared by the ex-employee in Family Declaration card.*

*Moreso, Late Begam Shaleha Khatun wife of Late Sk. Nazir Ali i.e. ex-family pensioner never declared you as his daughter during her life time.*

*In view of the above, your claim is return please.”*

On perusal of record and the impugned rejection it appears to this Court that, one further opportunity should be granted to the petitioner to establish her claim before the appropriate authority as the law is well settled that, Family Pension is a matter of right of the beneficiary, if the beneficiary can prove that, he/she is

the beneficiary of the Family Pension scheme in accordance with law, before the appropriate authority.

Accordingly, the impugned communication dated **November 29, 2022** stands **set aside** and **quashed**.

In view of the above, the appropriate authority of the respondents Port Trust Authority being the **Financial Advisor and Chief Accounts Officer, Syama Prasad Mookerjee Port, Kolkata** (the said **authority**) shall consider the claim once again.

The petitioner shall forthwith submit a copy of this writ petition along with a copy of today's order before the said authority.

The said authority then upon issuing a prior hearing notice of at least **seven days** to the petitioner and after granting her an opportunity of hearing shall decide the claim of the petitioner by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the said authority positively within a period of **eight weeks** from the date of communication of this order and the reasoned order shall be communicated to the petitioner positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner or her right and eligibility with regard to her claim and the authority shall be at liberty to consider the claim of the petitioner on the

basis of the available materials and records while deciding the issue.

It is needless to mention that, the petitioner shall be entitled to attend the hearing along with her **one** duly authorized representative.

In the event, any further document or record is required to be produced by the petitioner, the said authority shall be at liberty to call upon the same at its discretion and the petitioner shall produce the same before the said authority.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, if the petitioner is not eligible to receive her claim strictly in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 876 of 2023** stands **disposed of**, without any order as to costs.

The parties are to act on the server copy of this order duly downloaded from the official website of this Court.

**(Aniruddha Roy, J.)**