

04.03.2025
(D/L-2)
Ct. No.4
(B.K.N.)

W.P.S.T. 24 of 2025

**Smt. Mausumi Das & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Supratim Dhar, Sr. Adv.,
Mr. Santimay Bhattacharyya,
Mr. Ziaul Haque,
Mr. Anirban Das

...for the Petitioner

Mr. Tapan Kr. Mukherjee, Ld. AGP,
Mr. Somnath Naskar

...for the State

Mr. Debajyoti Deb,
Ms. Somdyuti Parekh

...for the Respondent No. 2

1. Heard learned counsel for the petitioner and the learned counsel for the respondents.
2. The petitioner claiming to be the wife and daughter of the government servant has approached the Tribunal with a prayer seeking a direction upon the State respondents to include their names as nominees for the purposes of grant of retiral dues of the government servant.
3. The Tribunal by order dated 9th December, 2024 passed on the petitioners' O.A. No. 355 of 2024 has rejected the claim by holding that such prayer is not maintainable before the Tribunal. The Tribunal has considered that the employee has the prerogative of naming his nominee in accordance

with the provisions contained in the D.C.R.B Rules. There is no provision casting an obligation on the State to record the name of wife and daughter as nominee. The O.A. No. 355 of 2024 has thus been dismissed.

4. When the matter was taken up yesterday we had gone through the provisions contained in Rule 7(e), Rule 100 and Form A at Annexure-II of the West Bengal Services (Death-cum-Retirement Benefit Rules, 1971 (hereinafter referred to as D.C.R.B. Rules)).
5. Having considered the provision we had recorded a prima facie opinion that there appears to be no obligation cast on the government/employer that he must enter or caused to be entered the name of any particular family member as a nominee/beneficiary of the retiral dues of a government employee.
6. The learned counsel for the petitioner sought an adjournment to address the Court on the issue. When the matter is taken up today, the learned counsel has taken us through the provisions contained in Rule 7(e), Rule 100, Rule 98 of the D.C.R.B. Rules. On going through these provisions he submits that two sisters who have been included as nominees, along with the mother of the petitioner no. 1's husband are married sisters.

They do not fall within the definition of “family” contained under the D.C.R.B. Rules and, therefore, they are strangers for the purposes of grant of retiral dues under the D.C.R.B. Rules.

7. He submits that under similar circumstances where persons who were ineligible had been nominated by the government employee for the purpose of grant of retiral dues, the Division Bench of this Court held that the claim of such ineligible persons could not be allowed by the respondent authorities. The two decisions relied upon by the learned counsel for the petitioners are in the case of ***Smt. Gouri Rani Das -Vs.- Commission of Police, Kolkata and others*** reported in **2007 SCC OnLine Cal 880** as well as the case of ***Parash Chandra Ghosh -Vs.- The State of West Bengal & Others*** reported in **2014 SCC OnLine Cal 9281**.
8. Mr. Mukherjee appearing for the State on the other hand submits that Rule 7(e) defines the expression “family”. Those who fall within this definition are entitled to nomination for the purposes of pension and gratuity. The fact which is not in dispute is that in the present case the government servant has nominated his mother and two sisters. Whether the two sisters would be entitled to grant of any benefits is an issue which may arise in the

future. In so far as the mother is concerned there can be no denial that she falls within the definition of “family” contained in Rule 7(e) of the D.C.R.B. Rules.

9. He further draws attention of the Court to Form A contained in the Annexure-II of the D.C.R.B. Rules. Upon a bare perusal of the same we find that the Form provides for nomination, but to be done by the government employee. We also find force in the submission of the learned State counsel that the employer cannot be compelled to incorporate the name of one or the other person falling within the definition of “family” under Rule 7(e).
10. Learned counsel for the respondent no. 5 has also adopted the submissions as advanced by the State.
11. Considering the above submissions we are in agreement with the decision of the Tribunal. There is no provision under the Rule which cast an obligation or a duty upon the respondent State to mandatorily include the name of one or the other relative falling within the definition **“family”**, occurring in Rule 7(e) of the D.C.R.B. Rules. We, therefore, are in agreement with the decision of the Tribunal that the petitioners could not invoke the jurisdiction of the Tribunal for a direction upon the employer to incorporate the name of the petitioners, merely because they are one amongst

the “relatives” included in the definition of “family” under Rule 7(e) of the D.C.R.B. Rules.

12. We also consider it appropriate to consider Rule 7(e) of the D.C.R.B, which reads as follows:

“7(e) “family” includes the following relatives of Government servant namely :

- (1) for the purpose of a death gratuity,
 - (i) wife in the case of a male officer,
 - (ii) husband in the case of female officer
 - (iii) sons including stepsons,
 - (iv) unmarried and widowed daughters (including stepdaughters),
 - (v) brothers below the age of 18 years and unmarried or widowed sisters,
 - (vi) father
 - (vii) mother
- (2) for the purpose of a family pension-
 - (i) wife in the case of a male officer,
 - (ii) husband in the case of a female officer,
 - (iii) minor sons including adopted sons,
 - (iv) unmarried minor daughters including adopted daughters,
 - (v) dependent parents.”

13. From a bare perusal of the same there can be no denial of the fact that mother is one of the relatives who may be nominated as a family for the purpose of death gratuity or family pension benefits. In so far as the sisters are concerned Rule 7(e)(1)(v) includes unmarried or widow sisters. Whether the two sisters who have been nominated fall within this definition or not, is not an issue arising for consideration today. We, therefore, leave it to the authorities to consider their entitlement at the appropriate stage.

14. Even if it is to be assumed for the sake of argument that they are not eligible, the same would not cast an obligation on the State to incorporate the name of the petitioners as nominees, and there is no occasion for enforcement of such a right by issuance of any direction in this regard.
15. We find no reason to interfere with the Tribunal's decision.
16. The writ petition is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)