

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble Acting Chief Justice Sujoy Paul
And
The Hon'ble Justice Partha Sarathi Sen

WPCT 164 of 2025

Laila Begum
-Vs-
The Union of India and others

For the petitioners: Mr. Atanu Biswas
Mr. Mrinal Saha
Mr. Sourav Saha

For the BSNL: Mr. Sanajit Kumar Ghosh

For the Union of India: Mr. Ajay Chaubey
Mr. Amarendra Chakraborty

For the respondent nos.7 to 9: Mr. Kalidas Saha
Ms. Khushi Mollick

Heard on : 16.12.2025

Judgment on : 16.12.2025

SUJOY PAUL, A.C.J. : -

1. This petition filed under Section 226/227 of the Constitution of India assails the order of Central Administrative Tribunal, Kolkata Bench dated 22.05.2025 passed in O.A. 350/728/2022, whereby claim of family pension of the

petitioner/widow of deceased employee was rejected by the Tribunal.

Factual Backdrop:

2. The petitioner claims that she was married to Md. Irshad Ali on 09.05.1998 and said marriage was registered in the Muslim Marriage Registrar & Kazi at Katwa. Consequently, the marriage registration certificate was issued. The case of the petitioner is that out of said wedlock with Md. Irshad Ali, their son Sahadat Hossain was born on 11.05.2000. Md. Irshad Ali died on 10.03.2015 and petitioner preferred a representation dated 16.04.2015 before the BSNL for grant of family pension due to death of her husband Late Md. Irshad Ali.
3. The petitioner also came to know that one Anowara Begum was in close relationship with her husband prior to death of their marriage registration. However, she expressed doubt whether marriage with her was a valid marriage. Admittedly, Anowara Begum passed away on 09.07.2021.
4. Since petitioner's representation for grant of pensionary benefits could not fetch any result, she filed O.A. 753/2016

before the Tribunal and Tribunal directed the department to consider and decide her representation by passing a reasoned and speaking order. A hearing was given to the petitioner by the department wherein she filed various documents which are marked by department itself on 05.03.2019 (Annexure A-12). After hearing, by speaking order dated 29.01.2020, the petitioner's claim was rejected. This compelled the petitioner to file instant O.A. which came to be decided by impugned order dated 22.05.2025. The Tribunal having recorded rival contentions, rejected the claim of petitioner by holding that CCS (Pension) Rules, 2021 is applicable for the purpose of examining the entitlement for family pension and since the petitioner has not been named in the family declaration made by the deceased employee as wife during his life time, she cannot be considered as widow and accordingly not entitled to get family pension.

Contention of petitioner:

5. Shri Atanu Biswas, learned counsel for the petitioner criticised the speaking order dated 29.01.2020 by contending that the proof of marriage was produced before the

authorities which are recorded by them in their proceeding order dated 05.03.2019 (Annexure A-12). This includes Aadhaar Card, Voter Identity Card, PAN Card and Ration Card of petitioner. In addition, digital copy of Certificate of Muslim Marriage (without signature) was produced along with statutory Form No.1601 of Government of West Bengal relating to "*Nikahnama*". In the reasoned and speaking order, a bald finding is given that in marriage certificate dated 09.05.1998, no signature of issuing authority is available. The Form No.1601 is doubted solely on the ground that age of deceased is not tallying with the age mentioned in the service book. It is submitted that no efforts were made to examine the correctness and genuineness of Form No.1601 from the issuing authority.

6. By taking this court to the **CCS (Pension) Rules, 1972**, learned counsel for the petitioner submits that deceased employee died on 10.03.2015. The Rules of 2021 were not even introduced on the said date because the said Rules came into existence on its publication in the official gazette only on 20th December, 2021. Thus, earlier Rules namely the

Central Civil Services (Pension) Rules, 1972 are applicable. As per Rules 54(7)(a) of the said Rules, where there are more than one widows, both the widows are entitled to get equal share of pension. In view of Proviso to Rule 54(7)(a)(ii), upon death of one widow, the remaining widow shall be entitled to get entire share of the pension.

7. Learned counsel for the petitioner submits that deceased employee submitted a statutory Form 3, giving details of family (Annexure R-1) on 10.07.2013, which does not contain the name of son of present petitioner i.e. Sahadat Hossain whereas Sahadat Hossain's name is mentioned as his son in the form at **page 125**. Thus, factum of marriage cannot be doubted. More so, from BSNL's reply filed before the Tribunal and its averments make it clear that factum of marriage of petitioner with Md. Irshad Ali was not doubted. Instead, repeated stand is that second wife is not entitled to get family pension as a legally wedded wife. (**page 5 para 7(vi) of the affidavit-in-opposition**). The similar averments are available in the other pages of said opposition. Thus, the marriage had taken place and the only question is regarding

entitlement of second wife for family pension. It is submitted that this point is settled by various High Courts including three Judges Bench of Gauhati High Court in the case of ***Mustt Junufa Bibi vs. Mustt Padma Begum*** in Writ Appeal No.160 of 2018, which is followed by a Division Bench of the said Court in ***Musstt. Khadija Begum vs. Nusstt. Rejina Begum and others*** in WA No.244 of 2017. The Judgment of Supreme Court in the case of ***Jodh Singh vs. Union of India*** reported in ***AIR (SC)-1980-0-2081***, was relied upon to submit that it is irrelevant whether deceased had shown his wife as dependant or not if Government/President is satisfied that she is the widow of deceased officer and was eligible for family pension under the Rules applicable therein. The learned counsel placed relies on the judgment of Gujarat High Court in the case of ***Union of India vs. Jayshree T. N. Vijaykumar N Acharya*** reported in ***LAWS(GJH)-2007-12-64***, to submit that the Court came to hold that in a case of this nature succession certificate or nomination in favour of widow are not required. Similarly, a judgment of Madhya Pradesh High Court delivered by one of us (Sujoy Paul, J.) in

the case of **Sona Bai Maravi vs. Central Industrial Security Force** in WP 3494/2015, is relied upon to submit that the prohibition of second marriage or presumption of second marriage being void is not applicable under the Muslim Law. Lastly, he placed reliance on the judgment of Bombay High Court at Nagpur Bench in the case of **Union of India and anr vs. Smt. Jaywantabai**, to submit that under the Constitutional provision and Fundamental Rights, the widow cannot be denied pension.

Contention of BSNL:

8. Learned counsel for the BSNL strenuously contended that for the purpose of examining the eligibility for pension, **CCS (Pension) Rules, 2021** are applicable. These Rules are adopted by the BSNL. By placing reliance on the Rule 2 of these Rules, it is submitted that these Rules are applicable to the government servants appointed on or before 31.01.2003, which covers the case of the husband of present petitioner as well.
9. The second contention of learned counsel for the BSNL is based on the speaking order. It is submitted that the digital

marriage certificate does not contain any signature of the issuing authority. Statutory Form No.1601 was although produced before the department, the age of deceased employee mentioned therein is not tallying with his age recorded in the service record. For this reason, his Form No.1601 was disbelieved.

10. It is further submitted by Mr. Ghosh, learned counsel for the BSNL that Anowara Begum was legally married wife of the deceased because her name is mentioned in different nomination forms submitted by the employee at the relevant time.
11. It is submitted that in case petitioner wanted the benefit of family pension, the only course available to her was to approach Civil Court for getting a declaration regarding marriage or produce a succession certificate. In absence thereof and nomination in her favour by deceased employee, no case is made out for grant of family pension.
12. Mr. Chaubey, learned counsel for the Union of India supported the stand of Mr. Ghosh, learned counsel for the BSNL.

Contention of Private Respondents:

13. Learned counsel for the private respondents fairly submitted that they are the legal representatives of Anowara Begum and she died on 19.07.2021. Thus, the present private respondents have no claim on the family pension. They are at best formal parties in this matter.
14. No other point is pressed by learned counsel for the parties. We have heard the learned counsel for the parties at length and perused the record.

Analysis:

15. In order to get family pension, widow needs to satisfy twin conditions:
- i) Factum of marriage with deceased employee.
 - ii) Entitlement of family pension under the applicable Pension Rules.
16. So far factum of marriage is concerned, pursuant to the first order of Tribunal passed in O.A. 753/2016, the petitioner appeared before the department and produced following documents which are recorded in the proceeding of the department dated 05.03.2019.

“The following self certified documents were submitted by Smt. Laila Begum as proof of evidence for her claim:-

- 1) Adhar Card of Laila Begum
 - 2) Voter ID Card of Laila Begum
 - 3) PAN Card of Laila Begum.
 - 4) Ration Card of Laila Begum.
 - 5) Certificate of Muslim Marriage (Without signature of proper authority)
 - 6) Form No.1601 of Govt. of West Bengal (Register-A (Book-1))**
 - 7) Affidavit dtd. 09/04/2015 before Executive Magistrate, Kalna regarding legal heir declaration.
 - 8) Legal heir certificate from Hatkalna Gram Panchayet.
 - 9) Affidavit dtd. 01/03/2019 before Executive Magistrate, Kalna giving self declaration.
 - 10) Death certificate of Irshad Ali from Kolkata Municipal Corporation.
 - 11) Death certificate of Irshad Ali from Peerless Hospital.
 - 12) Burial Certificate of Irshad Ali from Talibpur Gram Panchayet.
 - 13) Birth Certificate of Sahadat Hossain, S/o Lt. Irshad Ali**
 - 14) PAN Card of Sahadat Hossain
 - 15) Adhaar Card of Sahadat Hossain.
 - 16) Ration Card of Sahadat Hossain.
 - 17) Admit Card of Madhyamik of Sahadat Hossain”
- (Emphasis Supplied)*

17. In turn, speaking order dated 29.01.2020 was passed.

Relevant portion of the same is reproduced for ready reference:

“Reasoned and Speaking Order

Sub:- OA No. 753 of 2016 filed by Smt Laila Begum Vs. UOI & Others before the Hon'ble CAT, Kolkata Bench.

As per the direction of the Hon'ble CAT, Kolkata Bench, order dated 09.07.2018 in respect of the OA No. 753 of 2016 filed by Smt Laila Begum Vs. UOI & Others in connection with the claim of family pension of deceased Md. Irshad Ali, Ex AGM, BSNL, Kolkata SSA, the personal hearing was conducted on 05.03.2019 with all the legal heirs, namely Smt Anowara Begum, Mehboob Hossain, Nazmul Hossain and Smt Laila Begum.

The documents submitted by both the legal heirs and Smt. Laila Begum including the service book of deceased Irshad Ali are scrutinized and following observations are made:

- 1. The Service Book of deceased Irshad Ali including the last family declaration on 10.07.2013 made by him do not have any mention of Smt Laila Begum as his legal wife. Accordingly after superannuation of deceased Irshad Ali from service on 31.08.2013 the PPO book issued by CCA, DOT Cell contains the name Smt Anowara Begum as his legal wife.*
- 2. The marriage certificate dated 09.05.1998 as submitted by Smt Laila Begum do not contain the signature of issuing authority.*
- 3. Copy of entries of Register A (BOOK-1) which was submitted by Smt Laila Begum is showing the age of deceased Irshad Ali as 38 as on 09.05.1998 but as per service book his age should be 44 years on that date.*

So from the above observations it is clear that Smt Laila Begum could not produce any authentic document in support of her claim.

Hence the prayer of Smt Laila Begum regarding her claim of Family Pension is regretted.

This is issued with the approval of the competent authority.

*AGM (HR & Admin)
O/o the GMT, Calcutta SSA."*

(Emphasis Supplied)

18. This order was questioned by the petitioner before the learned Tribunal. The Tribunal has not given any finding about the factum of marriage. The Tribunal non-suited the present petitioner for the single reason that her name was not mentioned by deceased employee in the family declaration/nomination. Thus, first question is whether for this reason, the entitlement of pension can be denied? Coupled with the point taken by Mr. Ghosh, learned counsel for the BSNL that whether in a case of this nature, the widow must obtain declaration from Civil Court or obtain a succession certificate. It is noteworthy that curtains are drawn on these aspects by various High Courts. The Madhya Pradesh High Court in the case of **Smt. Chandradevi vs. State of Madhya Pradesh and another** in Writ Petition No.17945/2014 opined as under :

*“8. After hearing learned counsel for the parties at length and after going through the record as also the provisions of the rules in the matter of grant of family pension, it is seen that the demand made by the respondents is wholly unjustified. **It is nowhere provided under Rule 47 of the M.P. Civil Services***

5 (Pension) Rules, 1976, that the family pension would be granted only when the succession certificate is produced from the competent Civil Court. Precisely, this was the reason on earlier occasion when the writ petition of the petitioner was disposed of, this Court has granted liberty to the petitioner to obtain succession certificate from any competent authority.

9. In view of the aforesaid, **such insistence on the part of the respondents for asking the petitioner to produce the succession certificate from the Court cannot be countenance.**”

(Emphasis Supplied)

19. It is made clear by the High Court that under the Pension Rules, it is nowhere provided that family pension can be granted only when succession certificate is produced from the competent Civil Court.

20. Similarly, a Division Bench of Kerala High Court in **Salma Beevi V.A. vs. Administrative Officer** reported in **2014 SCC OnLine Ker 1173** opined as under:

“19. Going by **Rule 54 of the CCS (Pension) Rules**, the Family Pension is designed to provide relief to the widow and children by way of compensation for the untimely death of the deceased employee or pensioner. **The rules do not provide for any**

nomination with regard to family pension, instead it designates the persons who are entitled to receive family pension. Thus, no other person except those designated under the rules is entitled to receive family pension. The rules confer monetary benefit on the widow and children of the deceased employee or pensioner, but the employee or the pensioner, as the case may be, has no title to it and it does not form part of his estate enabling him to dispose of the same by testamentary disposition. Family pension payable on the death of an employee or succession certificate can be applied for under Section 372 of the Succession Act, 1925. **Production of succession certificate cannot be insisted upon for receiving family pension as it is neither a debt nor a security of the deceased employee or pensioner.**

20. For the reasons stated above, **we cannot sustain the view taken by the learned Single Judge that, the appellant will have to produce succession certificate as required by the 1st and 2nd respondents** in case she has to obtain family pension at the full rate and also to receive arrears of family pension in full. In the result, the judgment of the learned Single Judge is set aside.”

(Emphasis Supplied)

21. Similar is the view of another Bench of Madhya Pradesh High Court in ***Girijabai vs. State of Madhya Pradesh*** reported in **2008 SCC OnLine MP 141**. In ***Girijabai*** (supra), it is held in no uncertain terms that there was no necessity to obtain nomination or succession certificate.
22. The Orissa High Court took similar view in the case of ***Pabitra Mohan Pradhan & Anr vs. Damayanti Pradhan*** reported in **2002 SCC OnLine Ori 36**. It was clearly held that under Rule 75 of the Railway Services (Pension) Rules, 1993, (which in our opinion is *pari materia* to Rule 54 of CCS (Pension) Rules, 1972) no succession certificate is required.
23. The larger bench of Gauhati High Court in ***Mustt Junufa Bibi*** (supra) opined thus:

“4. The issue that arose before the learned Single Judge in WP (C) No.2182/2016 was also on the question as to if the parties are governed by the Mohammedan Law, whether the pension would be entitled to the first wife or to the second or other wives. By referring to a Division Bench judgment rendered in Sirazun Nessa vs. State of Assam and others, of this Court, reported in 2011 (4) GLT 751 and the judgment of the Hon’ble Supreme Court in Khurshid Ahmed Khan vs. State of Uttar Pradesh and

*Others, reported in (2015) 8 SCC 439, a conclusion was arrived in paragraph 16 of the judgment dtd. 26/7/2017 in WP(C) No.2182/2016 that although in Sirazun Nessa (supra), it was held that the second wife is entitled to the proportionate family pension, but by following the ratio laid down by the Hon'ble Supreme Court in Khurshid Ahmed Khan (supra) as well as in view of Note.1 to Rule 143 (ii) of the Assam Services (Pension) Rules, 1969 (in short the Pension Rules of 1969), the **non-inclusion of the respondent No.1 Padma Begum as a nominee in the pension papers submitted** by the deceased Tarif Uddin Ahmed **cannot deprive** her from what she should rightfully receive, in a situation where she was not divorced and continued to the first wife of the deceased employee."*

(Emphasis Supplied)

24. Interestingly, the judgment of Madhya Pradesh High Court in the case of **Girijabai** (supra), is based on the judgment of Supreme Court in the case of **G. L. Bhatia vs. Union of India and another** reported in **(1999) 5 SCC 237**. In **G. L. Bhatia** (supra), it was held that the widow even though excluded in the nomination is nonetheless entitled to get family pension.

25. Similar is the view taken by the Supreme Court in the case of **Jodh Singh** (supra). In this case, the Apex Court made it clear that it is irrelevant whether deceased has shown his wife as dependant or not. If President is satisfied that she is widow of deceased, she is entitled to get family pension.
26. Thus, we are constrained to hold that if factum of marriage is established, it was not necessary for the widow to obtain declaration or succession certification from the Civil Court.
27. So far factum of marriage is concerned, in order to prove the same, number of documents were filed by the petitioner. This includes the unsigned Muslim Marriage Certificate coupled with Form 1601 (Nikahnama Register) of Government of West Bengal. No doubt, digital certificate of marriage does not contain any signature of issuing authority it was supported by the statutory Form No.1601 which was signed by the competent authority. Admittedly, no efforts were made by BSNL to examine its genuineness/validity from the issuing authority. It is discarded solely on the ground that the age of the deceased is different in this certificate than the age mentioned in the service record. We wonder

how validity of marriage certificate or factum of marriage can be doubted on this solitary reason. In absence of discarding the entries of marriage register for any valid reason, we are constrained to hold that petitioner could establish the factum of marriage.

28. Pertinently, as rightly pointed out by learned counsel for the petitioner, the department/BSNL in their affidavit-in-opposition before the Tribunal, did not raise any doubt on the validity/factum of marriage. Instead, their categorical stand was that second wife is not entitled to get the benefit of family pension. Thus, the department has not assigned any valid reason which may cause dent to Form No.1601. In absence of any such reason, we find no reason to disbelieve the said marriage certificate based on Form 1601, more so, when the petitioner also produced the Ration Card and other statutory document etc.. The birth certificate of son of petitioner i.e. Sahadat Hossain was filed which contains the name of deceased employee as his father. Admittedly, the deceased employee mentioned the name of his son in his

nomination form submitted before the department. Thus, factum of marriage, in our opinion, cannot be doubted.

29. Mr. Ghosh repeatedly contended that Pension Rules of 2021 (Rules of 2021) are applicable. In our considered opinion, the right to get family pension accrues on the day the employee dies. The employee died on 10.03.2015. On more than one occasion, we asked a categorically question to Mr. Ghosh, learned counsel for the BSNL, as to on the date of death of the employee which Rules were applicable. By placing reliance on Rule 2 of the Rules of 2021, Mr. Ghosh urged that Rules of 2021 were applicable in 2015 as well. We do not see any merit in this contention. On the date of death of the employee, these Rules were not even published in the Notification dated 20th December, 2021. The Rules of 2021 may certainly cover the claims of pension of employees, who died/retired after these Rules came into being. Before that, certainly Pension Rules of 1972 were applicable. As per Rule 54(7) of said Rules, more than one wife is also entitled for pension. Proviso 1 of Sub-Rule 7(ii) is also required to be seen which makes the surviving widow of the employee

entitled for the entire share of pension, when other widow dies. Apart from this, it is interesting to note that even as per Rules of 2021, if there are more than one widow of a deceased government servant, there exists some provision for grant of family pension to them. For this reason also the argument of Shri Chaubey cannot be accepted.

30. In this backdrop, we are constrained to hold that the speaking order dated 29.01.2020 is not passed after proper scrutiny and cannot sustain judicial scrutiny. Factum of marriage was clearly established. The succession certificate and nomination are not required to get the family pension as discussed hereinabove. The Tribunal also committed an error of law in not examining the entitlement of family pension of petitioner on the crucial date, the date of death of Md. Irshad Ali. The Tribunal also erred in declining the benefit of family pension for want of family declaration.

31. In view of consistent view taken by various High Courts mentioned hereinabove and Supreme Court in the case of **Jodh Singh** (supra) and **G. L. Bhatia** (supra), such finding cannot sustain judicial scrutiny. Resultantly, the speaking

order dated 29.01.2020 and impugned order of Tribunal are **set aside**. The respondents are directed to grant family pension to the petitioner in accordance with Rules from the date of her entitlement. The entire exercise shall be completed within 3 months from the date of production of copy of this order. The family pension be calculated along with arrears and paid to the petitioner within the aforesaid time. If family pension is not paid along with arrears within aforesaid time, it will carry 6% interest till the date of actual payment.

32. The petition is **allowed**.

33. Urgent Photostat certified copy of this judgment, if applied for, be given the parties upon compliance of all necessary formalities.

(Sujoy Paul, A.C.J.)

I agree.

(Partha Sarathi Sen, J.)