

Form No. J.(2)
Item No. 6
AB

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

W.P.A. 18132 of 2025

Lakshmi Rani Maity
Vs.
Kolkata Port Trust & Ors.

For the petitioner	:	Mr. S. P. Dalapati Ld. Advocate Mr. Pritam Chowdhury, Ld. Advocate Mr. Tamal Taru Panda, Ld. Advocate Mr. Sourav Mondal, Ld. Advocate
For Kolkata Port Trust	:	Mr. Saptangshu Basu, Ld. Sr. Advocate Mr. Dipak R. Mukherjee, Ld. Advocate
Heard on	:	October 28, 2025
Judgment on :	:	October 28, 2025

Aniruddha Roy, J.

On the prayer of Mr. Saptangshu Basu, learned Senior Advocate appearing for Kolkata Port Trust Authority, time to file affidavit-in-opposition stands extended till today. The affidavit-in-opposition filed in Court today is kept on record. Copy has been served upon the petitioner.

Mr. S. P. Dalapati, learned counsel appearing for the petitioner, on instruction from his client, submits that the petitioner shall not use any

affidavit-in-reply to the said affidavit-in-opposition and shall proceed on the basis of existing record.

Accordingly, this Court proceeds for final consideration of the writ petition.

The writ petitioner claims to be the second wife of the deceased employee of Kolkata Port Trust, who died on **July 11, 2006**, claims family pension and release of gratuity. The deceased employee died in-harness. The admitted fact is that, the name of the petitioner appears in the service record of the deceased employee as nominee. The employer Port Trust has raised dispute with regard to the correct spelling of her name. The Provident Fund amount on account of deceased employee has already been released in favour of the petitioner by the employer Port Trust without any objection or demur.

The reason for withholding the gratuity amount and family pension is that the death certificate of the first wife of the deceased employee was not produced by the present writ petitioner being the second wife. The plea taken by Kolkata Port Trust that in absence of production of the said death certificate of the first wife, the actual marital status of the present writ petitioner could not be ascertained whether she is the lawful second wife of the deceased employee.

Referring to a Civil Court decree, **annexure P-14** at **page 36** to the writ petition Mr. S. P. Dalapati, learned counsel for the petitioner submits

tha, the jurisdictional Civil Court has already been granted a declaration in favour of the writ petitioner declaring her to be the lawful second wife of the deceased employee. The said Civil Court decree was looked upon on the judicial side in a writ petition by a co-ordinate bench when the co-ordinate bench by its order dated **January 21, 2020, annexure P-18** at **page 50** to the writ petition expressed its view that, the Court was not satisfied that the compromise decree constitutes an appropriate declaration that the original wife is legally dead or that the marriage of the petitioner was validly solemnized with the deceased.

Mr. Saptangshu Basu, learned Senior advocate appearing for the Kolkata Port Trust authority, on instruction from his clients, submits that, at a later stage the writ petitioner has produced the death certificate of the first wife which is required to be verified by the appropriate authority.

From sub-paragraph (i) to paragraph 3 of the affidavit-in-opposition filed by the Port Trust Authority, it appears that the authority has admitted the writ petitioner is the second wife of the deceased employee.

Considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court that, admittedly the name of the writ petitioner is there on the service record as the **nominee** of the deceased employee and accepting such nomination the employer has already released the Provident Fund without any objection. The nomination is still valid.

It is also true that a nominee cannot receive the family pension. Family pension can only be received by the appropriate legal heir of the deceased employee, subject to the satisfaction of the employer, that such legal heir is entitled to receive the same in law.

It is also a fact that, the gratuity has not yet been released and still being withheld by the employer though the employee died long back on **July 11, 2006** in-harness during his employment tenure. It was the bounden duty and obligation of the employer in law, to release the gratuity amount in favour of the nominee immediately upon the death of the employee. Therefore, the withholding of the said gratuity amount by the Port Trust authority was and is not permitted in law and withholding is without due process of law.

Payment of gratuity is an obligation of the employer under The Payment of Gratuity Act, 1972, which is a benevolent legislation. Payment of interest is also provided there under.

In view of the foregoing reasons and discussions, the following directions are made:

- (a) The appropriate authority of the Port Trust shall forthwith release the gratuity amount in favour of the writ petitioner being the recorded nominee of the deceased employee positively within a period of **six weeks** from the date of communication of this order along with simple interest @ **6% per annum** from the next date of*

*the death of the deceased employee i.e. **July 12, 2006** until the actual payment is tendered to the writ petitioner.*

*(b) Since the death certificate of the first deceased wife has already been produced by the writ petitioner before the Port Trust Authority, the appropriate authority upon verification of the same and on being satisfied therewith, if the authority is of the opinion that the writ petitioner is eligible to receive family pension, the Port Trust Authority shall forthwith start paying the family pension to the petitioner and shall continue to pay the same till the time the petitioner survives without any default. This exercise shall be carried out and completed by the appropriate authority of the Port Trust positively within a period of **six weeks** from the date of communication of this order.*

*(c) The arrear on account of family pension shall also be paid to the writ petitioner but **without any interest** positively within a period of **three months** from the date of communication of this order.*

After releasing the gratuity and/or the family pension in favour of the petitioner, if any rival claim is lodged before the Port Trust authority, such authority shall have no liability or responsibility in any manner and the rival claimant shall be at liberty to proceed against the writ petitioner in accordance with law.

With the above observations and directions this writ petition **W.P.A. 18132 of 2025** stands **allowed**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)