

08.08.2025
Sl. No.12
Ct.3/ tkm

W.P.A. 19678 of 2024

Sampa Dey
Vs
Kolkata Municipal Corporation & Ors.

Mr. Ashim Kr. Routh
Mr. Subhayan Barik
Ms. Ananya Mondal

... .. for the petitioner

Mr. Srijan Nayak
Mr. Arijit Dey

... .. for the KMC

1. Exception in the form of affidavit filed by the petitioner against the report is taken on record.
2. The petitioner has preferred the present writ petition, being aggrieved by the communication issued by the respondent corporation whereby her application for grant of family pension was rejected on the ground that the benefit of family pension of Late Sandhya Das (Dey) cannot be extended to the petitioner as she was married on the date of death of her mother, and subsequently, got divorced after a period of three years thereafter.
3. The case of the petitioner is that her late mother was a permanent employee of respondent Corporation and she passed away on 12.12.2020. Although the petitioner was married at the time, she was entirely dependent on her mother during her lifetime. The petitioner's

marriage was dissolved by a decree of divorce on 20.7.2023. She subsequently submitted a representation for the grant of family pension on 5.12.2023. However, the respondent corporation rejected her application solely on the ground that she was married at the time of her mother's demise and had applied for the pensionary benefit merely three years thereafter.

4. The respondent no. 1 has filed affidavit-in-opposition. As per the respondent, the entitlement of family pension to a divorced daughter of the Kolkata Municipal Corporation employee is governed by Circular no. Ch.Manager/Pen/Cir/009/2008-09 dated 20.12.2008. According to the circular, a divorced daughter may be eligible for family pension provided her monthly income from any source including Government, Semi Government, Statutory Bodies, Corporation, Undertaking, Private Sector or Self employment is less than Rs. 2600/-.
5. The respondent contends that the petitioner is not entitled to the said benefit. The other limb of arguments is that the petitioner was married at the time of her mother's death and is, therefore, not entitled to the grant of any family pension.

6. This court has heard the arguments advanced by the parties and has perused the materials placed on record. On a careful examination of the record, it is evident that the petitioner was married on the date of her mother's demise and was granted a decree of divorce only on 20.7.2023. She submitted her application for family pension on 5.12.2023. The circular dated 20.12.2008 relied upon by the respondent, does not bar a divorced daughter above the age of 25 years from claiming family pension, provided her monthly income does not exceed Rs. 2600/-. It is noteworthy that the respondent did not examine or assess the petitioner's income while rejecting her application. The impugned rejection appears to be based solely on her marital status at the time of her mother's death, without due consideration of the criteria laid down in the applicable circular.
7. In view of above, this court is of the considered opinion that the respondent ought to have examined the petitioner's eligibility in terms of the circular dated 20.12.2008.
8. Accordingly, the impugned letter dated 22.1.2024 is hereby set aside. The matter is remanded back to the respondent for fresh consideration of the petitioner's claim for family

pension strictly in accordance with the provisions of the said circular as expeditiously as possible and upon proper assessment of her eligibility criteria.

9. With the above direction, the present writ petition is disposed of.

(Gaurang Kanth, J.)