

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

WPA 25060 of 2018

Smt. Indrani Das

Versus

Union of India & Ors.

For the Petition : Ms. Santi Das
Mr. R.A. Bhowmick

For the Union of India : Mr. Uttam Basak

Heard & Judgment on : 4th August, 2025.

Ananya Bandyopadhyay, J:

1. The instant writ petition has been filed by the petitioner being aggrieved by the action on the part of the respondent authorities to have failed to release the pensionary benefit in her favour on account of death of the husband of the petitioner who had retired from the service of the respondent authorities on 31st July, 2006, having opted for voluntary retirement.
2. The Learned Advocate representing the petitioner submitted that the respondent authorities time and again asked for relevant

documents to be submitted for consideration of release of the family pension in favour of the petitioner. However, on one pretext or the other the respondent authorities continued to delay the same citing instances that the husband of the petitioner in his life time did not mention the name of the nominee in his service record, since the deceased employee being the husband of the petitioner did not nominate anyone in the service record.

3. The respondent authorities deliberately precluded to consider the application of the petitioner to be the wife of deceased employee through a valid marriage and had deprived the petitioner of the benefits thereof till date, despite submission of Succession Certificate endorsing her eligibility to claim the same.
4. The Learned Advocate representing respondent BSF submitted that the respondent authorities had received a complaint from the deceased employee stating that the petitioner was in adulterous relationship with a person and was untraceable.
5. The same issue had been reflected in the service record of the deceased employee who had mentioned that the whereabouts of his wife were not known to him. It was further submitted that the complaint was filed by the brother-in-law of the deceased employee who narrated the petitioner to have left the company of the deceased employee along with her younger son and could not be traced out till the date of voluntary retirement of the

petitioner. It was further submitted in accordance with Rules 54 of the CCS Pension Rules, 1972 the person who had been adulterous relationship was deprived from claiming the family pension of the deceased employee.

6. Moreover on applications received from the petitioner from time to time the same had been placed before the higher authority which concluded that the provisions of the CCS Pension Rules, 1972 regarded the status of the petitioner to have been in adultery whereby she had been legally prevented to claim the family pension. Learned Advocate representing the petitioner confronted the submissions of the Learned Advocate representing respondent authorities stressing the petitioner/husband during his lifetime had communicated to the concerned police station, due to suspicion and misconception owing to trivial family dispute he had filed the earlier complaint before the same which he intended to withdraw. It was further submitted that the respondent authorities on multiple occasions asked the petitioner to file relevant documents of being legally entitled to the claim of family pension.
7. Accordingly petitioner had filed legal heir certificate issued by the District Magistrate, Purba Medinipur in order to bolster the claim of the petitioner. The Succession Certificate was also

submitted through an application before the respondent authorities.

8. Despite fulfillment of requirement, the respondent authorities till date did not consider the status of the petitioner and did not communicate or reply to the representation. The cardinal question in the instant writ petition is to determine as to whether the respondent authorities in absence of concrete proof of the petitioner being in an adulterous relationship can objectify their decision on the basis of a complaint filed at the police station which was thereafter withdrawn by the husband of the petitioner during his life time. Lodging on a complaint at a police station ipso facto does not establish the commission of any kind of offence whatsoever under any stretch of law without the same being investigated upon followed by a process of trial and culmination into a conclusive determination by the Court of law. Vague assertions in the complaint and the affidavit filed by the deceased employee wherein it was mentioned with the deceased employee was suspicious that his wife was in an adulterous relationship could not be an absolute indisputable fact without being tested in a court of law to be sanctified and inevitably proved for its legal recognition. The Succession Certificate issued in favour of the petitioner stating her to be one of the legal heirs

along with two of her sons entitled her to the claim in the writ petition without miniscule of doubt.

9. Moreover, Rule 54 of CCS Pension Rule, 1972 had been applicable to the employees in service to pension in adulterous relationship and not the wife of the deceased employee. The respondent authorities could not have invariably stated in view of the Succession Certificate to have been issued in favour of the petitioner that till the date of demise of the husband of the petitioner, she had been judicially separated or divorced from him.

10. The respondent authorities cannot under any circumstances prevent the petitioner from being entitled to the benefits claimed in the writ petition and are to disburse the same at once. On considering the documents already filed before the respondent authorities within a period of two months from the date of passing this order.

11. The writ petition being WPA 25060 of 2018 is disposed of.

(Ananya Bandyopadhyay, J.)