

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble The Acting Chief Justice SUJOY PAUL
&
The Hon'ble Justice PARTHA SARATHI SEN

WP.CT 320 OF 2024

Union of India & Ors.
-Vs-
Jayanti Chatterjee

For the Petitioners: Ms. Chandreyi Alam, Adv.,
Ms. Runu Mukherjee, Adv.

For the Respondent: Mr. Phatick Chandra Das, Adv.

Hearing concluded on: 17.11.2025

Judgment on: 24.11.2025

PARTHA SARATHI SEN, J. : –

1. The subject matter of the instant writ petition is the order dated 11.05.2023 as passed by the Central Administrative Tribunal, Kolkata Bench, Kolkata (hereinafter referred to as the said Tribunal in short) in OA No. 350/1616/2022 whereby and whereunder the said Tribunal while allowing the said original application of the respondent/ original applicant directed the

appellant authority i.e. the Union of India and its instrumentalities to disburse family pension to the respondent/original applicant within 8 weeks from the date of the receipt of the certified copy of the impugned order.

2. The aforementioned authorities felt aggrieved and thus, preferred the instant writ petition.

3. For effective adjudication of the instant writ petition some relevant facts are required to be dealt with and those are stated hereinbelow in seriatim:-

- (i) One Ranjit Kumar Chatterjee, since deceased, the father of the respondent/original applicant was employed as Senior Auditor in Accounts Office, Riffle Factory, Ichhapore and he was superannuated on 31.01.1996.
- (ii) One Smt. Bandana Chatterjee, the spouse of late Ranjit Kumar Chatterjee pre-deceased her husband on 29.01.1991.
- (iii) The said Ranjit Kumar Chatterjee, since deceased, the ex-employee of the appellants/authorities as well as being the pensioner died on 10.07.2003.
- (iv) The respondent/original applicant being married daughter of late Ranjit Kumar Chatterjee filed a suit for divorce in the year 2016.
- (v) The said matrimonial suit was decreed on 24.06.2016.
- (vi) On 13.02.2017, the respondent/ original applicant submitted an application for grant of family pension before the writ petitioners/ authorities as a divorced daughter.

- (vii) By a memo dated 06.03.2017, the Respondent No. 5 rejected such application for grant of family pension.
- (viii) The said order of rejection dated 06.03.2017 was challenged by the respondent herein before the said Tribunal by filing OA No. 1594 of 2017 which came to be disposed on 24.03.2022.
- (ix) The said tribunal by the said order dated 24.03.2022 directed the writ petitioners/ authorities to reconsider the matter by taking into account the financial condition of the respondent/ original applicant.
- (x) In terms of the said order dated 24.03.2022 as passed by the said Tribunal, the respondent authorities, more specifically the Respondent No. 4 authority by its speaking order dated 23.06.2022 came to a finding that the respondent/original applicant is not eligible for grant of family pension.
- (xi) The said speaking order dated 23.06.2022 was subject matter of challenge in OA No. 350/1616/2022 which came to be disposed of by an order dated 11.05.2023 which is impugned in this writ petition.

4. At the time of hearing Ms. Alam, learned Advocate appearing on behalf of the writ petitioners/ authorities at the very outset took us to Page no 6 and Page No. 8 of the impugned order. It is submitted by Ms. Alam that the said Tribunal while passing the impugned order has failed to visualize the true spirit of the office memo dated 19.07.2017 which clarifies the eligibility of a divorced daughter for obtaining family pension in terms of the provisions of

Central Civil Service (Pension) Rules, 1972 (hereinafter referred to as the said Rules in short).

5. Attention of this Court is drawn to Page No. 183 of the instant writ petition being a copy of the said office memo dated 19.07.2017. It is submitted by Ms. Alam that from the said office memo dated 19.07.2017 it would reveal that the appropriate authority of the writ petitioners being the Under Secretary to the Government of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners' Welfare clarified that the divorced daughter who fulfill other conditions are eligible for family pension if a decree of divorce had been issued by the competent Court during the lifetime of at least one of the parents.
6. It is further submitted by Ms. Alam that the said memo dated 19.07.2017 further clarified that in the event divorce proceeding has been filed in a competent Court during the lifetime of the employee/ pensioner or his/her spouse but divorce took place after their death provided the claimant fulfils other conditions for grant of family pension under Rule 54 of the said Rules, in such cases the family pension would commence from the date of divorce.
7. In course of her submission Ms. Alam also draws attention of this Court to the OM No. 1/13/09-P and PW(E) dated 11.09.2013 which deals with another clarification regarding the eligibility of widowed/ divorced daughters for grant of family pension. It is argued by Ms. Alam that in the speaking order dated 23.06.2022 the writ petitioner No. 4 authority had duly dealt with the aforementioned notifications dated 11.09.2013 and 19.07.2017 and thus came

to a logical conclusion regarding non-entitlement of family pension of the respondent/original applicant.

8. It is submitted by Ms. Alam that while passing the impugned order dated 11.05.2023 the said Tribunal completely misdirected itself in interpreting the said two notifications in their proper perspectives and on the contrary the said Tribunal wrongly placed its reliance to the order dated 16.06.2016 as passed in OA 350/1194/2015 which has got no relevance to the facts and circumstances as involved in the instant writ petition as well as to the aforementioned two notifications dated 11.09.2013 and 19.07.2017.
9. Drawing attention to the Page Nos. 164 to 173 of the instant writ petition being a copy of the reply as filed by the appellants authorities before the said Tribunal, it is submitted by Ms. Alam that in Paragraph 9 of the said reply the appellants authorities herein had taken specific defense in that regard.
10. It is thus, submitted by Ms. Alam that the impugned order as passed by the said Tribunal is not sustainable in the eye of law and the same may be set aside by issuing appropriate writ/writs.
11. Per contra, Mr. Das, learned Advocate appearing on behalf of the respondent/original applicant in virtual mode, at the very outset draws attention of this Court to the order dated 24.03.2022 as passed by the said Tribunal in OA No. 1594 of 2017 wherein the initial order of rejection dated 06.03.2017 as passed by the appellants authorities was impugned. It is submitted by Mr. Das that in the said order dated 24.03.2022 the said

Tribunal has duly considered the pros and cons of the aforementioned two memos dated 11.09.2013 and 19.07.2017 and came to a specific finding that the respondent/original applicant should be considered for family pension if not eligible for the same on other grounds and thus directed the appellants authorities herein to reconsider the application of the respondent/original applicant after taking into account the financial condition of the respondent/original applicant.

12. It is submitted by Mr. Das that the said order dated 24.03.2022 as passed by the said Tribunal in OA No. 1594 of 2017 was not challenged before this Court and thus the said order reached its finality.
13. It is thus submitted by Mr. Das that in view of such the writ petitioners/ authorities while passing its speaking order dated 23.06.2022 ought not to have place their reliance upon the said memo dated 11.09.2013 and 19.07.2017.
14. It is further submitted by Mr. Das that before the said Tribunal the respondent/original applicant placed its reliance upon an order dated 16.06.2016 as passed by the said tribunal in OA No. 350/1194/2015 (***Ratna Sarkar Vs. Union of India and Ors.***) wherein the said Tribunal duly clarified the true implication and purport of the said two notifications dated 11.09.2013 and 19.07.2017.
15. It is further submitted by Mr. Das that in the order under challenge dated 11.05.2023 the said Tribunal rightly placed its reliance upon the order

dated 16.06.2016 as passed in OA No. 350/1194/2015 (**Ratna Sarkar Vs. Union of India and Ors.**) and thus rightly allowed the original application of the respondent/original applicant thereby directing the appellants authorities to grant family pension to the respondent/original applicant.

16. It is further submitted by Mr. Das that in absence of any perversity and/or glaring illegality and/or irregularity, there can be no justification to interfere with the order impugned sitting in writ jurisdiction.
17. We have meticulously gone through the entire materials as placed before this Court. We have duly considered the rival submissions of the learned Advocates for the contending parties.
18. For effective adjudication of the instant *lis* we at the very outset propose to look to the relevant portion of the memo dated 11.09.2013 which is quoted hereinbelow in verbatim:-

“(27) Eligibility of widowed/divorced daughters for grant of family pension— Clarification.— Provision for grant of family pension to a widowed divorced daughter beyond the age of 25 years has been made vide OM, dated 30-8-2004 (date should be 25-8-2004). This provision has been included in Clause (iii) of sub-rule 54 (6) of the CCS (Pension), Rules, 1972. For settlement of old cases, it was clarified, vide OM, dated 28-4-2011, that the family pension may be granted to eligible widowed/divorced daughters with effect from 30-8-2004, in case the death of the Government servant/pensioner occurred before this date.

2. This Department has been receiving communications from various Ministries/Departments seeking clarification regarding eligibility of a daughter who became widowed/divorced after the death of the employee/pensioner.

3. As indicated in Rule 54 (8) of the CCS (Pension) Rules, 1972, the turn of unmarried children below 25 years of age comes after the death or remarriage of their mother / father, i.e., the pensioner and his/her spouse. Thereafter, the family pension is payable to the disabled children for life and then to the unmarried / widowed/ divorced daughters above the age of 25 years.

4. It is clarified that the family pension is payable to the children as they are considered to be dependent on the Government servant/ pensioner or his/her spouse. A child who is not earning equal to or more than the sum of minimum family pension and dearness relief thereon is considered to be dependent on his/her parents. Therefore, only those children who are dependent and meet other conditions of eligibility for family pension at the time of death of the Government servant or his/her spouse, whichever is later, are eligible for family pension. If two or more children are eligible for family pension at that time, family pension will be payable to each child on his/her turn, provided he/she is still eligible for family pension when the turn comes. Similarly, family pension to a widowed/divorced daughter is payable, provided she fulfils all eligibility conditions at the time of death/ineligibility of her parents and on the date her turn to receive family pension comes.

5.....

6.....”

19. The relevant portion of the memo dated 19.07.2017 is as under:-

“2.....

3.....

4. It was clarified that a daughter if eligible, as explained in the preceding paragraph, may be granted family pension provided she fulfils all eligibility conditions at the time of death/ineligibility of her parents and still on the date her turn to receive family pension comes. Accordingly, divorced daughters who fulfill other conditions are eligible for family pension if a decree of divorce had been issued by the

competent court during the life time of at least one of the parents.

5.....

6. The matter has been examined in this department in consultation with Department of Expenditure and it has been decided to grant family pension to a divorced daughter in such cases where the divorce proceedings had been filed in a competent court during the life-time of the employee/pensioner or his/her spouse but divorce took place after their death provide the claimant fulfils all other conditions for grant of family pension under rule 54 of the CCS (Pension) Rules, 1972. In such cases, the family pension will commence from the date of divorce.

7. This issue with the concurrence of Ministry of Finance, Department of Expenditure, vide their ID No. 1(11)/EV/2017, dated 7th July, 2017.”

20. On conjoint perusal of the aforementioned two memos dated 11.09.2013 and 19.07.2017 it thus appears to us that in case of the claim of the respondent/original applicant Sub-Rule 54(6)(iii) of the said Rules vis-à-vis its clarifications as have been given under the aforementioned two notifications dated 11.09.2013 and 19.07.2017 would apply.

21. Keeping in mind the aforementioned enabling provisions, if we look to the factual matrix as involve in the instant writ petition it appears to us that on the day of the death of the pensioner i.e. on 10.07.2003, the respondent/ original applicant was already married and is thus no way dependent upon her deceased father and, therefore, the respondent/original applicant has failed to

satisfy the eligibility criteria for grant of family pension in view of the provisions of Rule 54 (6)(iii) of the said Rules read with the said memo dated 11.09.2013.

22. Materials have been placed before us that the respondent/ original applicant being married daughter of the pensioner filed her suit for dissolution of marriage in the year 2016 which was decreed on 24.06.2016. It thus, appears to us that the respondent/ original applicant thus initiated her divorce proceeding much after the death of the pensioner i.e. after 13 years and thus, the respondent/ original applicant is also not entitled to get the benefit of Clause 6 of the memo dated 19.07.2017 which states that in the event the divorce proceeding was initiated in a competent Court during the lifetime of the pensioner and/or his/her spouse but divorce took place after their death, the divorced daughter is entitled to get family pension provided she fulfills all other conditions under Rule 54 of the said Rules.

23. Similar view was taken by a coordinate Bench of this Court in the case of **Calcutta Dock Labour Board and Anr. Vs. Priyanka Nandi and Ors.** reported in **2024 SCC Online Cal 8358** wherein the following was held:-

“11. Entitlement of family pension occurs on the death of the employee concerned. Therefore, date of death is a vital consideration so far as entitlement of family pension is concerned. As on the date of death, therefore, the categories of persons specified therein, entitled to family pension must exist.

12.....

13.....

14.....

15.....

16. Rule 54(6) (ii) specifies that on the date of the death of the deceased employee, the first person who will receive family pension to the exclusion of all others specified therein is the disabled child. Therefore, if there is no disabled child, the widowed/divorced/unmarried daughter will be eligible to receive family pension.

17. In the facts of the present case, there is no disabled child of the deceased employee. On the date of death of the deceased employee, private respondent was not divorced. Date of death of the deceased employee is January 4, 2016 while the decree for divorce in respect of the private respondent is dated July 3, 2019.

18. Consequently, we are of the view that the private respondent does not fall within the purview of Rule 54 (6)(ii) of the CCS Rule read with the Resolution No. 19 dated March 30, 2015 of CDLB.”

(Emphasis Supplied)

24. Similar view was taken by another coordinate Bench of this Court in the case of **Union of India and Ors. Vs. Sandhya Ghosh** reported in **2024 SCC Online Cal 6207** wherein it was held thus:-

“10. Sandhya married Bivash on 26th May, 1998 prior to the death of her father on 18th March, 2005. No matrimonial suit was admittedly filed prior to the death of Haripada though the respondent alleged that she was forcibly driven out of her matrimonial house in the month of June, 2003. The representation towards grant of family pension was also filed on 9th July, 2012, i.e., about seven years after the death of Haripada. In the said conspectus, it cannot be said that Sandhya comes under the purview of the scheme towards grant of family pension.

11. The grant of family pension is guided by a scheme and an applicant is mandatorily required to satisfy the provisions of the same to avail the benefits. The object

towards grant of such family pension is to give pecuniary support to a dependant family member of the deceased. The respondent had failed to establish that she was dependent upon her father, at the time of his demise.....

12. For the reasons discussed above, the direction issued by the learned Tribunal upon the petitioners to pass appropriate order towards grant of family pension in favour of Sandhya, as issued in the case of Mamata, is not sustainable in law.”

(Emphasis Supplied)

25. Similar view was taken by the Hon’ble High Court of Madhya Pradesh in the case of **Union of India and Anr. Vs. Nirmala Rajput** reported in **2025 SCC Online MP 4021** where the following was held:-

“24. In M.P. No. 3192/2022, father of the respondent expired on 07.02.1985. On his death family pension was sanctioned in favour of his wife and she received it till her death on 11.05.2017. Thereafter Respondent applied for family pension claimed to be divorcee.

25. At the time of death of the father on 07.02.1985, since her mother was alive, respondent was not eligible for grant of family pension. Respondent married on 11.03.1988 as per Hindu rites and ceremonies. She claims that she separated from her husband and a Talaknama (marriage dissolution agreement) dated 23.11.2009 was executed between her and her husband. A petition seeking divorce by mutual consent was filed on 01.02.2018 and divorce by mutual consent was granted on 24.08.2018.

26. On the death of her mother on 11.05.2017, neither was a petition for divorce pending nor was divorce granted. Thus Respondent was not eligible for grant of family pension on that date.”

(Emphasis Supplied)

26. In view of such settled position of law, we have no hesitation to hold that the respondent / original applicant has miserably failed to prove that on the day of the death of his father i.e. the pensioner Late Ranjit Kumar Chatterjee, she was anyway dependent upon him. The respondent/ original applicant has also miserably failed to produce a single scrap of paper that the divorce proceeding as has been initiated by her was filed during the lifetime of her deceased father i.e. the pensioner. In view of such, we find no merit in the claim of the respondent/ original applicant for getting family pension as has been directed to be paid by the said Tribunal.

27. We do not find much substance in the argument of Mr. Das that the said two notifications dated 11.09.2013 and 19.07.2017 have prospective effect only and cannot be treated retrospectively in view of the fact that the said two notifications merely clarify the eligibility criteria of divorced daughter of a pensioner who was governed under the said Rules which was/were brought into effect in the year 1972.

28. We have meticulously gone through the impugned order dated 11.05.2023 as passed by the said Tribunal. It appears to us that the said Tribunal most mechanically placed its reliance upon its previous order dated 24.03.2022 as passed in OA 1594 of 2017 (***Jayanti Chatterjee Vs. Union of India and Ors.***) which in considered view of this court are factually different

from the facts and circumstances as involved in the original application as disposed by it.

29. It rather appears to this Court that the said Tribunal while passing the order dated 11.05.2023 made no endeavour to assign any reason as to why according to it the said two notifications dated 11.09.2013 and 19.07.2017 have got no manner of application in connection with OA No. 350/1616/2022.
30. It thus appears to us that the order impugned is based on consideration of extraneous materials as well as the same is vitiated on account of non-consideration of materials which are on record and thus interference in the judicial review is called for.
31. We are also in disagreement with the argument of Mr. Das that in the earlier round of litigation, the said Tribunal while passing its order dated 24.03.2022 in OA No. 1594 of 2017 came to a specific finding with regard to non-applicability of the aforementioned two notifications dated 11.09.2013 and 19.07.2017 since in such order dated 24.03.2022 the said Tribunal made no endeavour to distinguish the said two notifications from the factual matrix as involved in OA No. 1594 of 2017.
32. It thus appears to us that the previous order dated 24.03.2022 as passed in OA No. 1594 of 2017 has got no binding effect upon the respondent authorities more specifically upon the respondent No. 4 authority while passing its speaking order dated 23.06.2022.

33. In view of the discussion made hereinabove, we thus find sufficient merit in the instant writ petition.
34. Accordingly, the instant writ petition is hereby allowed.
35. Consequently, the order dated 11.05.2023 as passed in OA No. 350/1616/2022 by the Central Administrative Tribunal, Kolkata Branch, Kolkata is hereby set aside.
36. Consequently, the speaking order dated 23.06.2022 as passed by the Respondent No. 4 authority is hereby upheld.
37. Urgent Xerox certified copy, if applied for, be given to the parties on completion of usual formalities.

I agree.

(SUJOY PAUL, A.C.J.)

(PARTHA SARATHI SEN, J.)

(P.A- Pramita)