

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present : The Hon'ble Justice Amrita Sinha

WPA No.3645 of 2025

Aparupa Das
-vs-
State of West Bengal & Ors.

For the petitioner	:	Ms. Chama Mookherjee, sr. adv. Ms. Monisha Chatterjee, adv. Ms. Reshmi Nehar, adv.
For SBSTC	:	Mr. Ayan Banerjee, adv. Ms. Debasree Dhamali, adv. Ms. Riya Ghosh, adv. Ms. Debolina Ghosh, adv.
For PF authorities	:	Mr. Rajib Ray, adv.
Heard on	:	June 9, 2026
Judgment on	:	June 9, 2026

Amrita Sinha, J:

1. The petitioner claims to be the cousin sister of one Dipankar Das who was employed with the South Bengal State Transport Corporation (SBSTC). The petitioner has averred in the writ petition that the employee came to learn that his wife Proma Das, the private respondent herein, was living with a third person along with their two sons. The employee had none to take care of him and he started staying in the house of the petitioner. The employee breathed his last on November 27, 2022.

2. Submission of the petitioner is that the employee executed an affidavit in the Court of the learned Judicial Magistrate, First Class, Alipore declaring that he married Proma Das on March 10, 1996 and his wife went missing on August 16, 2015. A missing complaint was lodged in August 2015. Telecast for missing person was made in the television and also broadcasted in the All India Radio along with the photograph of Proma Das, but she could not be traced.

3. The petitioner has annexed photographs in support of the submission that the employee was his brother. The petitioner has also averred in the writ petition that she is an educated person and a practicing lawyer in the district Court of Howrah and her husband is also an advocate.

4. The petitioner has annexed a document dated July 19, 2022 issued by the Employees' Provident Fund Organization relating to transfer of the name of the beneficiaries of the deceased employee. The petitioner has also annexed the PPO of the Employees' Provident Fund Organization in support of the submission that her name is mentioned as the beneficiary of the dues left by the employee. The petitioner approached the respondent employer praying for releasing the terminal dues of the employee in her favour after taking into consideration the update in the list of beneficiaries recorded by the employee in the office of the Employees' Provident Fund Organization.

5. Learned senior advocate representing the petitioner submits that the petitioner is agreeable to file an undertaking before the Court declaring that, she being the nominee of the amount left behind by the deceased employee, would hand over the amount to the widow of the deceased employee, as and when such prayer is made.

6. In support of the submission that the authority ought to disburse the dues in favour of the petitioner in accordance with the nomination filed by the employee, reliance has been placed on the judgment in the case of ***Sharadamma v. Jayashree*** reported in ***ILR 1992 KAR 2277*** wherein the Karnataka High Court held that in order to claim benefit under the Provident Fund Act, the person claiming it has to prove that he/she has been nominated in accordance with the rules of the fund. The nominee will be entitled to receive the money for and on behalf of the deceased and would be liable to disburse the money among the heirs of the deceased employee. The only effect of nomination is that payment made by the authority to the nominee will discharge the liability of the authority.

7. SBSTC has filed a report opposing the claim of the petitioner. The administrative and personnel officer of SBSTC has averred in the report that Dipankar Das was initially appointed on March 5, 1990 and was subsequently confirmed on April 6, 1992. On November 29, 2003 the employee submitted his nomination format incorporating the name of his wife, Proma Das (Chatterjee), for release of provident fund and gratuity in 100% share. Name of two of his sons as his family members were also mentioned.

8. On September 24, 2020, the employee submitted nomination form for gratuity mentioning the name of his wife, Proma Das as his nominee for receiving payment of the gratuity amount. The employee expired on November 27, 2022. Prior to his death, the employee did not file any document praying for change of nomination.

9. According to the employer, the employee throughout his lifetime acknowledged the private respondent, Proma Das as his wife and nominee in all official records and only mentioned the name of the petitioner as his family

member or nominee in the application for monthly pension just a couple of months prior to his death.

10. After receiving the application from the petitioner seeking release of the terminal dues of the employee, the authority directed both the petitioner and the private respondent to appear in the office of the authority along with documents in support of heirship. Heirship certificate was not submitted by either of the parties. The Commissioner of the Kolkata Municipal Corporation was also requested vide letter dated March 21, 2024 to issue the heirship certificate. There has been no response till date.

11. Learned counsel for SBSTC submits that in the absence of any valid document from either of the parties for change of nomination or for disbursal of the terminal dues, the employer is not in a position to release any terminal dues in favour of the petitioner.

12. Learned counsel for the Provident Fund Organization relies upon the report affirmed by the Assistant Provident Fund Commissioner wherein it is mentioned that the writ petition has been filed by the petitioner claiming to be the sister of the retired employee. The application for monthly pension (format Form 10D) submitted by the employee mentioned the relationship of the petitioner with him as his daughter.

13. In the pension worksheet (part A) dated July 5, 2022 containing the particulars of the members of the Employees' Pension Scheme, 1995 the relationship of the petitioner with the employee is mentioned as wife. The input date sheet as on July 4, 2022 which is annexed to the report of the Provident Fund Authority clearly records the name of the petitioner with the relationship as wife.

14. The stand of the provident fund authority is that, wife is the natural nominee in the EPS until and unless she dies or is legally separated. The provident fund accumulation of the employee is payable only to a valid nominee declared by the member. In the absence of valid nomination, the heirs and successors of the deceased will be paid in equal shares.

15. Upon hearing the respective submissions on behalf of all the parties and on perusal of the documents annexed to the writ petition, it is absolutely clear that the employee, Dipankar Das, who exited service on May 1, 2021 disclosed the name of his wife as Proma Das in all his service records. Till the date of his death on November 27, 2022, no application was filed by the employee before the employer seeking change of his nomination or beneficiary in his official records.

16. The petitioner has averred in the writ petition that she is the cousin sister of the employee. The document relying on which the petitioner claims the benefit of gratuity, records the status of the petitioner as 'wife' in one place and 'daughter' in the other. There is no document annexed to the writ petition that the marriage of the employee with his wife Proma das, the private respondent, was annulled or set aside or dissolved by any Court of competent jurisdiction. An affidavit allegedly affirmed by the employee just a couple of months prior to his death for changing nominee as his wife was missing does not amount to dissolving the marriage between the parties. As long as the wife of the employee remains alive and the marriage subsists, the petitioner does not have any right to claim terminal benefit of the employee. The employee never filed any document either before the provident fund authority or before his employer, SBSTC, disclosing the proper relationship of the petitioner with him.

17. There are contradictory claims made by the petitioner all over in the petition. As long as the wife of the employee survives, she remains the natural nominee in the EPS and the provident fund accumulation cannot be disbursed to anybody else. Merely because the widow of the employee has not yet claimed the dues and the employee, for any reason whatsoever, resided with the petitioner prior to his death, does not give a right to the petitioner to claim terminal benefits of the deceased employee.

18. Though the petitioner claims that the employee lodged missing diary in the year 2015, but fact remains that, even in the year 2020, the employee disclosed the name of his wife Proma Das as his nominee in all his official records. The same implies that the employee intended that none apart from his wife Proma Das should be treated as his nominee.

19. The decision in the matter of Sharadmma (supra) relied upon by the petitioner reiterates the settled position of law that nomination has to be made in accordance with the rules of the Employees' Provident Fund. The petitioner has not been able to show a single document wherein the employee declared the petitioner as his sister to be nominee of the money left behind by him after his death.

20. In view of such discrepancy in facts and the settled position of law that the wife and the children of the deceased employee would be the natural nominee, the prayer of the petitioner for grant of gratuity cannot be allowed.

21. The writ petition fails and is hereby dismissed.

22. Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocate on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)

Subrata