

20.04.2026
Item No.18
Court No.12
(cp)

MAT 2056 of 2025
with
CAN 1 of 2026
with
CAN 2 of 2026

The Kolkata Municipal Corporation & Ors.
Vs.
Sampa Dey

Mr. Srijan Nayak
Mr. Arijit Dey

.....for the appellants.

Mr. Nilkamal Ghosh
Mr. Pradyot Kr. Das

.....for the respondent.

1. CAN 1 of 2026 is an application for condonation of delay of 78 days in filing the appeal.
2. Considering the averments in paragraphs 6 to 9 of the said application, we are satisfied that the delay has been explained properly. Accordingly, the delay is condoned.
3. CAN 1 of 2026 is allowed.
4. Let the appeal be regularized.
5. In view of the various decisions of this court with regard to giving a purposive interpretation to the expression 'dependant' of a deceased employee insofar as the claims for compassionate appointment and family pension are concerned, we are of the view that, an estranged daughter who was living with the parent due to a

unhappy marriage should be treated to be a dependent. The benefit of family pension should be also given to such daughters, who were on the verge of getting divorced but the dissolution of marriage had not taken place. The courts have also held that if the daughter can establish that during the subsistence of her marriage she was living with the parent and was dependent on the parent, in that event, the definition of 'Divorced Daughter' should be read down to include such daughters who were married but living apart and who did not have any other source of income either by way of employment or by way of support from the husband in the nature of interim maintenance etc. We find that in the decree for divorce, the court recorded that the writ petitioner was living away from her husband for some time.

6. Under such circumstances, we modify the order impugned to the extent that the corporation, while deciding whether the circular of 2008 would be applicable insofar as it relates to the income of the writ petitioner, will also consider the case of the writ petitioner as to whether:-

- a) She was living apart from the husband and residing with the parent prior to the date of death of the employee and continued in such address;
- b) She was financially dependent on the deceased;

c) She had no other income and she had not got any interim maintenance.

7. The writ petitioner must prove that at the time of death of the mother, the writ petitioner was actually residing with the mother and was being supported by her mother financially.
8. These aspects are factual, which we cannot go into the same and we direct the writ petitioner to produce adequate material before the corporation in support of her claim for family pension. Thus, the contention of Mr. Nayak, learned advocate for the appellants, that a divorced daughter would be entitled to family pension only if she was divorced prior to the date of death of the employee is not accepted and the reasons for the same we have already given hereinbefore.
9. The writ petitioner will be at liberty to adduce both oral and documentary evidence in support of her contention. She can also examine witnesses who would testify to the fact that she was living with the mother in view of the matrimonial discord with her husband and was financially dependent on her mother and that she continued to live at the mother's address.
10. Under such circumstances, the appeal and the connected application are disposed of.

11. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)