

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
K O L K A T A – 7 0 0 0 9 1**

Present :-

**The Hon’ble Mrs. Urmita Datta (Sen)
MEMBER (J)**

-AND-

**The Hon’ble Mr. P. Ramesh Kumar
MEMBER(A)**

**J U D G E M E N T
-of-
Case No. OA-94/2019**

Jyotirmoyee RoyApplicant .

-Versus-

State of West Bengal & others....Respondents

For the Applicant **:- Mr. M. Karim,
Mr. A. Samad,
Mr. S. Haque,
Ld. Advocates.**

For the State Respondent **:- Mr. M.N. Roy,
Ld. Advocate.**

For the A.G. W.B. **:- Mr. B. Mitra,
Departmental Representative.**

Judgement delivered on: 19.07.2019.

**The Judgement of the Tribunal was delivered by:-
Mrs. Urmita Datta (Sen), Member (J).**

J U D G E M E N T

The instant application has been filed praying for following reliefs;

- a) An order directing that the instant applicant be granted Family Pension for life with effect from 17.01.2015 after the death of her mother Ajita Rani Roy who was the Family Pension Holder on the death of her husband, Jamini Mohan Roy who was a Pension Holder being an Retired Account Clerk of the respondent No.2 and 3 and who retired on 01.08.1972 (A.N) and who died on 28.09.1981 while getting pension under PPO No.F/VI/2668 of the Government of West Bengal;
- b) An order directing the respondent authorities concerned to refrain from insisting the instant applicant to submit the death certificate of the said Original Pension Holder i.e. Jamini Mohan Roy and also directing such respondent authorities concerned to exempt such requirement of Death Certificate in view of the facts and circumstances stated hereinabove as also upon considering that the Family Pension had been granted in favour of the said Ajita Rani Roy widow of the said Jamini Mohan Roy and she was allowed to get it upto 16.01.2015 after a continuous period of long period say about 35 years without any such dispute whatsoever;
- c) An order directing the respondent No.4 to submit or produce the death certificate of Jamini Mohan Roy, father of the petitioner who died on 28.09.1981 at his R.G. Kar Medical College & Hospital at Kolkata.
- d) Any other order or direction as it would deem fit and proper to Your Lordships;

As per the applicant, she is the youngest unmarried daughter of her father Late Jamini Mohan Roy, who retired on 01.08.1972 and continued to receive pension till his death on 28.09.1981 under the PPO No.F/VI/2668. After the death of her father, her mother Late Ajita Rani Roy was also receiving family pension w.e.f. 04.04.2001 till her death on 16.01.2015. After the death of her mother, the applicant approached to the respondents for granting of family pension in favour of her. Subsequently, the respondent No.3 had asked for submission of several numbers of documents vide his Memo dated 29.09.2015 (Annexure F). Thereafter, the applicant had submitted all documents except the death certificate of her father as her father died in 1981 and after a long time, the said death certificate is not traceable / available with her. In such a situation, she filed one written complaint with the local police at

Uttarpara Police Station being GDE No.22 dated 02.12.2018 (Annexure H). However, the respondent No.3 vide Memo dated 4.7.18 (Annexure G) had intimated the applicant that since she could not be able to submit death certificate in respect of her father Late Jamini Mohan Roy, the authority concerned is not able to process her family pension. Being aggrieved with, she has filed the instant application.

As per the applicant, after the retirement of her deceased father, he was receiving pension till his death and after his death in the year 1981, the mother of the applicant was also receiving family pension and (obviously after submitting the death certificate of her father to the respondent authorities). The mother of the applicant used to get family pension till her death and since in the meantime long 25 years has lapsed, the death certificate of her father is not available or traceable by her. However, the respondents are still having the death certificate of her father with them as they have already granted family pension to her mother. As per the counsel for the applicant since she has submitted all required documents except the death certificate of her father including the affidavit in this regard, therefore, she may be granted family pension by way of granting exemption for filing of death certificate of her deceased father.

Though no reply has been filed either by the state respondents or by the Principal A.G. (A&E), W.B. i.e. respondent No.5, however, the counsel for the state respondent had submitted that they have already forwarded the case of the applicant to the office of the Principal A.G.(A&E), W.B. and they have nothing to do further since they are not the final authority for granting of family pension in favour of the applicant as the A.G.W.B. has to take final decision in this regard and further as the A.G. Office has rejected the claim of the applicant of family pension. Further, they have only communicated the said rejection to the applicant.

The departmental representative of the Principal Accountant General has submitted that as per rules, death certificate of the deceased employee is necessary. Therefore, they are not in a position to disburse the family pension in favour of the applicant.

We have heard all the parties and perused the records. In the instant case, it is observed that the family pension of the applicant has been refused on the ground of non-submission of death certificate of the deceased employee. However, it is also admitted fact that the mother of

the applicant was receiving family pension after the death of her husband and in that scenario if as per version of the AG Office, death certificate of deceased employee is necessary for grant of family pension in favour of any of the family member, therefore, the said death certificate had must been submitted after the death of her father.

In the instant case, the applicant has also filed one GDE with respect to the death certificate of her father. She has also submitted the death certificate of his mother. Therefore, in our considered view if the applicant is otherwise eligible or her identity is not in question, she should not be deprived of her legitimate claim. Accordingly, we direct the respondents to take appropriate steps to provide her family pension. Obviously, after taking proper steps about her identity as a daughter of deceased employee and after exempting the submission of death certificate. In this process, the respondent is at liberty of asking for any further documents to ascertain the identity of the applicant as an unmarried daughter of the deceased employee as her mother was granted family pension. In this process the concerned department may approach Finance Department for special consideration due to such special peculiar circumstances. We also expect that the Finance Department would take appropriate steps to look into DCRB Rules by way of considering this type of special situation and to accommodate one eligible person to get their due rights. Accordingly, we direct the respondents to take appropriate steps as per abovementioned observation and after completion of all other necessary requirements / documentation and to disburse the family pension within a period of eight weeks from the date of receipt of this order. The applicant is also directed to submit other necessary documents as required by the respondents in this regard. Accordingly, the OA is disposed of with the above observation and direction with no order as to cost.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)

