

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble The Acting Chief Justice SUJOY PAUL

8

The Hon'ble Justice PARTHA SARATHI SEN

WP.CT 36 OF 2025

The Union of India & Ors.

-Vs-

Mita Saha Karmakar

For the Petitioners:

Mr. D.N. Ray, Sr. Adv.,
Ms. Moumita Mondal, Adv.

For the Respondent:

Mr. Asim Kr. Niyogi, Adv.,
Mr. Vaskar Pal, Adv.

Hearing concluded on:

04.12.2025

Judgment on:

09.12.2025

PARTHA SARATHI SEN, J. : -

1. In this writ petition as filed under article 226/227 of the Constitution of India the judgement and order dated 09.10.2024 as passed in O.A./350/01165/2022 by the Central Administrative Tribunal, Kolkata Bench, Kolkata (hereinafter referred to as the 'said tribunal' in short) is assailed.

2. By the impugned order, the said tribunal set aside the reasoned order dated 25.06.2022 as passed by the writ petitioner no. 3 herein and directed

the writ petitioner no.2 herein to grant family pension to the original applicant who is the respondent before us.

3. The Union of India and its instrumentalities who are the respondents in the original application before the said tribunal felt aggrieved and filed the instant read petition.

4. At the time of hearing, Mr. Ray Learned Senior Advocate appearing on behalf of the writ petitioners/authorities at the very outset submit before this court that the said tribunal is not justified in passing the impugned order in as much as the tribunal has failed to visualise that the pensioner who is the father of the original applicant died on 19.04.2013 and his spouse that is the mother of the original applicant pre-deceased her husband on 05.11. 2011.

5. It is further submitted by Mr Ray that from the materials as placed before this court as well as before the said tribunal, it would reveal that the original applicant had filed a suit for dissolution of her marriage in the year 2014 and that said suit was decreed on 01.09.2016. It is submitted by Mr. Ray that from the facts and circumstances as involved in the instant petition, it would reveal that the original applicant who is respondent before this court filed her suit for divorce against her husband much after the death of her father as well as of her mother.

6. Placing reliance upon a judgement dated 24.11.2025 as passed by this Court in WP.CT 320 of 2024 (**Union of India and others versus Jayanti Chatterjee**), it is argued by Mr Ray that the facts and circumstances as involved in the case of **Jayanti Chatterjee (supra)** are

identical with the facts and circumstances of the instant writ petition in as much as the original applicant/respondent herein has failed to establish that on the day of death of her father, that is the pensioner she was anyway dependent upon him.

7. It is further argued by Mr. Ray that this Court in the case of **Jayanti Chatterjee (Supra)** the true implication of the memo dated 19. 07. 2017 has been elaborately interpreted and such interpretation is equally applicable in the case in hand.

8. It is further submitted by Mr Roy that based on the principles of law as enunciated in the case of **Jayanti Chatterjee (supra)** by this court, the instant writ petition may be allowed by setting aside the impugned judgement and order dated 09.10.2024, as passed by the said tribunal.

9. Per contra, Mr Niyogi learned advocate appearing on behalf of the respondent/original applicant at the very outset draws attention of this court to the copy of the original application as filed before the Tribunal. It is submitted by Mr Niyogi that from the pleadings of said original application, it would reveal that it is the case of the original applicant/respondent herein that her marriage was solemnised on 12.08.1991.

10. It is further submitted by Mr Niyogi that it is the positive assertion of the original applicant/respondent herein before the said tribunal that she was driven out from her matrimonial home by her husband and finding no other alternative, she took shelter at her paternal home on or before the year 1997.

11. Drawing attention to page number 84 of the instant petition being a copy of an application for alimony-pendentilite as filed by the original applicant/wife in Matrimonial Suit No. 36 of 1997 as filed by her husband, it is submitted by Mr. Niyogi, that sufficient materials have been placed before the said tribunal as well as before this court that during the lifetime of the pensioner, who is the father of the original applicant/respondent, a suit for divorce was pending against the original applicant/respondent which was however subsequently stayed on account of non-payment of maintenance by her husband as directed to be paid by her husband by the jurisdictional trial Court.

12. It is further submitted by Mr. Niyogi, that subsequently the original applicant filed another suit for dissolution of her marriage in the year 2014 on the ground of desertion, which was decreed on 01.09.2016. Drawing attention to page number 98 to 100 of the instant writ petition, it is submitted by Mr. Niyogi that the jurisdictional trial court while granting divorce to the original applicant in the subsequent matrimonial suit came to a finding that the original applicant has been deserted by her husband since 15.12.1995 in view of the candid admission of her husband as has been recorded by the said Court in course of deposition.

13. It is further submitted by Mr Niyogi that the said tribunal while passing the impugned order has rightly noticed that during the lifetime of the father of the original applicant, a divorce suit was pending before a competent court of law against the original applicant and further the

original applicant was dependent on her father during his lifetime more specifically since 1997.

14. It is further argued by Mr Niyogi that the said Tribunal while passing the impugned order has rightly interpreted the true meaning and purport as well as the implication of DO. P&T OM dated 19.07.2017 and thus there is hardly any scope to interfere with the order impugned.

15. We have carefully gone through the entire materials as placed before us. We have also given our due consideration over the submissions of the learned advocates for the contending parties.

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

- (I) The original applicant's father was an employee in South Eastern Railway who retired from service on 31.12.1983.
- (II) The original applicant's mother died on 05.11.2011.
- (III) The pensioner died on 19.04.2013.
- (IV) The marriage of the original applicant was solemnised on 12.08.1991.
- (V) The original applicant's husband filed a suit for dissolution of marriage in the year 1997.
- (VI) The said suit for dissolution of marriage was however, stayed on account of non-payment of maintenance to the original applicant by her husband.

(VII) The original applicant filed another suit for dissolution of marriage against her husband in the year 2014 on the ground of desertion.

(VIII) The said second suit for dissolution of marriage was decreed on 01.09.2016.

17. On perusal of reasoned order dated 26. 05. 2022 as passed by the writ petitioner No.3 herein, it reveals that said Authority while considering the representation of the original applicant in the light of DO.P.T OM dated 19.07.2017 came to a finding that since the suit for divorce at the instance of the original applicant was filed much after the death of her parents, the original applicant cannot be considered as dependent upon her parents and on such score, such representation of the original applicant was not considered favourably.

18. We have noticed that the said tribunal while passing the impugned order, however, did not agree with the said reasoned order and on the contrary, the said tribunal has come to a finding that they said DO.PT OM dated 19. 07 2017 does not mandate that the divorce suit as pending during the lifetime of the parents of the original applicant should result in the decree of divorce. The said tribunal also noticed that the authority while passing the reasoned order under challenge before it interpreted the said memo dated 19. 07. 2017 in a restrictive manner, which is not warranted.

19. In the case of **Jayanti Chatterjee (Supra)** we have occasion to consider the said memo dated 19. 07. 2017 in the light of reported decision in the cases of **Calcutta Dock Labour Board and another -vs- Priyanka Nandi and others** reported **(2024) SCC online Cal 8358** and **Union of**

India -vs- Sandhya Ghosh reported in **(2024) SCC online 6207** as well as in the case of **Union of India and another -vs- Nirmala Rajput** reported in **2025 SCC Online MP 4021.**

20. While deciding the case of **Jayanti Chatterjee (supra)** we have noticed that the object of granting family pension under the said memo dated 19.07.2017 is to give pecuniary support to a dependent family member of the deceased.

21. The moot questions as arise for our consideration in the instant writ petition are as to whether the original applicant was at all dependent upon her father at the time of his death, and that she is at all eligible to receive family pension from the employer of his deceased father.

22. We have noticed that before the said tribunal, the original applicant has furnished sufficient documents that she was deserted by her husband on or before 1996, and since then she was compelled to reside at her paternal home with her father, and she has no independent income of her own.

23. In course of argument, Mr Niyogi has shown from the annexures to the writ petition that the husband of the original applicant filed a suit for dissolution of marriage against his wife/the original applicant in the year 1996 when the father of the original applicant was very much alive. The said suit was however stayed on account of non-payment of maintenance by the husband of the original applicant.

24, Materials have been placed before us that in the year 2014, the original applicant filed another suit for dissolution of marriage against her husband on the ground of desertion. We have noticed that the jurisdictional trial court while passing the decree in the said matrimonial suit, observed on the basis of the admission of the defendant/ husband that the original applicant was deserted by her husband since 15.12.1995 that is during the lifetime of the pensioner.

25. At this juncture, we propose to look to clause 6 of DO.P.T. OM dated 19. 07, 2017, which reads as under :

“that, it has been decided to grant of family pension to the divorced Daughter in such cases where the divorce proceeding had been filed in a competent court during lifetime of the Pensioner/ Employee or his/her spouse, but divorce took place after their death -provided the claimant fulfils all other conditions for grant of family pension under rule 54 of the CCS (Pension) Rules, 1972. In such cases, family pension will commence from the date of divorce.”

26. In the event the aforementioned OM dated 19. 07. 2017 is looked in the perspective of the factual aspects as narrated in the foregoing paragraphs, it appears to us that the writ petitioner no.3 authority has failed to visualise that the husband of the original applicant filed a suit for dissolution of marriage against her wife (the original applicant) during the lifetime of her father which however remained stayed on account of non-payment of maintenance by the husband. Subsequently, the marriage between the original applicant and her husband was dissolved by a decree of divorce on 01.09.2016 in a suit for dissolution of marriage as initiated by the original applicant/wife.

27. It thus appears to us that the original applicant is successful in establishing that her claim for family pension comes under the purview of the said OM dated 19.07.2017. It further appears to us that the writ petition No. 3 authority by passing the reasoned order dated 26.05.2022 interpreted the said OM dated 19.07.2016 in a narrow periphery overlooking its beneficial object.

28. We are also satisfied that the original applicant before the said tribunal as well as before us is also successful in establishing that at the time of death of her father (pensioner) she was very much dependent upon him on account of desertion of her husband as has been established before a competent court of law, which passed the decree of divorce in favour of the original applicant, noticing candid admission of the husband of the original applicant.

29. In the considered view of us the facts and circumstances as involved in the case of **Jayanti Chatterjee (Supra)** are distinguishable from the facts and circumstances as involved in the instant writ petition in as much as in the case of **Jayanti Chatterjee (Supra)**, we have noticed that the original applicant of the said case had miserably failed to substantiate that on the day of death of her father(pensioner), she was dependent upon her father and that any divorce proceeding was initiated either by her or against her during the lifetime of her father.

30. In view of the discussion made herein above, we find no fault on the part of the said tribunal in passing the order impugned. It appears to us that the said tribunal interpreted the DO. PT. OM dated 19.07.2016 in its

true perspective and the view taken by the said Tribunal is quite a plausible view.

31. We are conscious that sitting in writ jurisdiction, we are not supposed to act like an appellate court and thus cannot substitute our view simply because another view is possible. In absence of any glaring illegality and/or perversity in the order impugned, we are not at all inclined to interfere with the order impugned

32. As a result, the instant writ petition fails and is hereby dismissed, however considering the facts and circumstances of the case without any order as to cost.

33. Urgent photostat 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.)