

PANKAJ HALDER

Advocate
High Court, Calcutta
Room No. 12, Bar Association
Email : pankajhalder02@gmail.com
M- 9733828456/9433248464

Chamber :
Bapuli Bazar, Mathurapur,
Dist. South 24-Parganas,
PIN: 743354
Residing at :
Pragatipally, Subhasgram,
P.S. Sonarpur, Kolkata-147.

To

Date : 03.03.2021

1. The learned Govt. Pleader,
High Court, Calcutta.
2. The Assistant Director of Pension, Provident Fund and Group Insurance,
Govt. of West Bengal, Purtha Bhavan, Salt Lake, Calcutta : 700091.
3. The Chairman, Phanihati Municipality,
District : North 24-Parganas, PIN : 700110.

Ref : W.P.A. NO. *6545* OF 2021
AJIT KUMAR SAHA AND ANR
-Vs-
State of West Bengal and Anr

Sir,

Please find enclosed herewith an application under Article 226 of the Constitution of India along with its all annexure for your necessary action. The aforesaid matter will come up for hearing before the Hon'ble Justice Rajsekhar Mantha of this Hon'ble High Court on 8.3.2021 or soon thereafter as the business of the Hon'ble Court, when may permit.

Please be present at the time of hearing.

Thanking you,

Enco : As stated above.

Yours faithfully,

P. Halder

DISTRICT- NORTH 24-PARGANAS

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P.A. No. 6545 of 2021

In the Matter of:

An application under Article 226 of the
Constitution of India;

-And-

In the Matter of:

Subject Matter relating to Municipality
Services, Group V Head (h) of the
Classification list;

-And-

In the matter of :

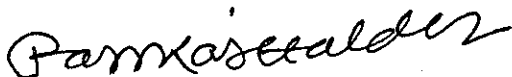
Ajit Kumar Saha and Anr

....Petitioner

-Vs-

The State of West Bengal & ors.

....Respondents.



Mr. Pankaj Halder
Advocate

Bar Association Room No.12
High Court, Calcutta.

(M) : 9733828456

Email. Pankajhalder02@gmail.com.

DISTRICT- NORTH 24-PARGANAS

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P.A. No. of 2021

In the Matter of :

Ajit Kumar Saha and Anr

....Petitioner

-Vs-

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....Respondents.

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1.	The copy of the Writ Petition		
2.	The copy of the Superannuation Letter	P-1	
3.	The copy of the Pension payment order	"P-2"	
4.	The copy of the death certificate	"P-3"	
5.	The copy of the marriage Certificate	"P-4"	
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8.	The copies of the further recommendation And rejection order.	"P-7"	

LIST OF DATES

1. 31.1.2007 The petitioner No.1 retired from service as Secretary of Phanihati Municipality, District : North 24-Parganas.

2. 15.5.2014 Wife of the petitioner no. 1 died.

- 3) 19.3.2015 The petitioners married in accordance with Hindu Marriage Act.

- 4) 24.6.2015 The petitioner submitted all the documents to the Authority concerned.

- 5) 14.1.2019 The authority concerned rejected the prayer of the petitioners.

POINTS OF LAW

1. Whether the authority concerned is under obligation to record the name of petitioner no.2 as wife of petitioner no. 1 for family pension?

2. Whether the spouse man or woman as the case may be married after the retirement of the concerned Government servant can be kept out of the definition so as to deprive him from the benefits of the family pension?

3. Whether the reason as stated in the order dated 14.1.2019 is sustainable in the eye of law.

Through:
Pamkaj Ghosh
Advocate

DISTRICT: NORTH 24-PARGANAS

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(APPELLATE SIDE)

W.P.A. No. 6545 of 2021

In the Matter of :

An application under Article 226 of the
Constitution of India;

-And-

In the matter of :-

1. Ajit Kumar Saha, Son of late
Kumode Bandhu Saha, Residing at A20,
School Road, P.O. Sodepur, District :
North 24-Parganas, Kolkata : 700110.

2. Mithu Saha, Wife of Ajit Kumar
Saha, Residing at A20, School Road, P.O.
Sodepur, District : North 24-Parganas,
Kolkata : 700110.

.... Petitioners

-Vs-

1. The State of West Bengal, service through the Secretary, Department of Municipal Affairs, Alipore, New Administrative Building, Calcutta : 700027.

2. The Director/Deputy of Pension, Provident Fund and Group Insurance, West Bengal, Purta Bhavan, Salt Lake, Kolkata - 700091.

3. The Assistant Director of Pension, Provident Fund and Group Insurance, West Bengal, Purta Bhavan, Salt Lake, Kolkata - 700091.

4. The Panihati Municipality, Panihati, Kolkata : 700114, Service through the Chairman/Administrator.

....

Respondents

To

The Hon'ble Thottathil B. Radhakrishnan, Chief Justice and His Companion Justices of the said Hon'ble Court.

The humble petition of the petitioners
above named in the above matter;

MOST RESPECTFULLY SHEWETH:-

1. That your petitioners are the citizen of India and resides permanently at the addresses given in the cause title herein above.

2. That your petitioners state that the petitioner no.1, Ajit Kumar Saha retired from his service as Secretary of Panihati Municipality, Dist. North 24-Parganas, on 31.01.2007 at the age of Sixty years.

The copy of the Superannuation letter is enclosed herewith and marked with letter "P-1"

3. That your petitioners state that after retirement of the petitioner no.1, the authority concerned issued the pension payment order in favour of the petitioner no. 1 and since then, the petitioner has been getting his pension month by month in accordance with the rules and/or circulars issued by the concerned authorities time to time.

The copy of the pension payment order is enclosed herewith and marked with letter "P-2"

4. That your petitioners state that at the time of his retirement, his ailment wife was alive and unfortunately, the wife of the petitioner, Purnima Saha died on 15.5.2014 and thereafter no one was looked after the petitioner.

The copy of the death certificate is enclosed herewith and marked with letter "P-3"

5. That your petitioners state that after demise of his wife of the petitioner no. 1, no one was look after the said employee, hence, the petitioner no.1 got married to the petitioner No. 2 herein in accordance with Hindu Marriage Act, 1955 and their marriage was solemnized and registered on 09.03.2015 before the appropriate authority in accordance with law.

It is further submitted that since the date of marriage of the petitioners, the petitioner no. 1 and petitioner no. 2 have been living as husband-wife in the same premises.

The copy of the marriage certificate is enclosed herewith and marked with letter "P-4"

6. That your petitioners state that after solemnization of their marriage, the petitioner no. 1 intimated the said marriage to the authority concerned along with necessary documents for endorsement of family pension of

entitlement of post-retiral spouse in the pension payment order of the pensioner's.

The copy of the said application of the petitioner no. 1 dated 24.6.2015 is enclosed herewith and marked with letter "P-4".

7. That your petitioners state that in response to the application of the petitioner no.1 for incorporation of the name of the petitioner no.2 in the Service Record and/or Pension Book, the Phanihati Municipality forwarded his application to the authority concerned for nomination of Second Wife of Ajit Kumar Saha in place of his deceased first wife, Purnima Saha.

It is further submitted that in reply to the recommendation letter of the Phanihati Municipality, the Deputy Director of Pension and Provident Fund by a letter dated 5.4.2018 requested to the Secretary of the Municipal Affairs Department inter alia " it may be stated that finance Department and Education Department of West Bengal Government have already passed order regarding payment of Family Pension to post retiral Spouse Vide G.O. No. 196-F(Pen) dated 27.9.1991 and 92-SE(B) dated 20.03.2006 respectively. Hence, the said Secretary is requested to consider the matter.

The copy of the said letter dated 5.4.2018 is enclosed herewith and marked with letter "P-5".

8. That your petitioners state that subsequent, one after one recommendations were made by the concerned authority for consideration of the case of the petitioners vide recommendation dated 21.5,2018 but no effect thereto with regard to incorporation the name of the petitioner no.2 as wife of the petitioner no.1 in the service record.

The copy of the said recommendation is enclosed herewith and is marked with letter "P-6"

9. That your petitioners submit that on the said date i.e. 21.5.2018, the Phanihati Municipality further requested to the concerned authority for consideration of the case of the petitioners. In reply to the said request, the Assistant Director of Pension, Provident Fund and Group Insurance, West Bengal Vide letter dated 14.1.2019 reply to the petitioner that as per West Bengal Municipal (Employee"s Death Cum Retirement Benefits Rules, 2003, adoption or marriage after retirement will not be recognised for the purpose of family pension.

The copies of the said letter dated 21.5.2018 and rejection order dated 14.1.2019 are enclosed herewith and marked with letter "P-7".

10. That your petitioner states that Rule 2(1)(g) of the West Bengal Municipal (Employee"s Death Cum Retirement Benefits Rules, 2003, the

definition of family " Wife is in case of male employee" the petitioners herein are the legally husband and wife and no restriction can be imposed upon the petitioners to deny the pension of legally married wife even after retirement. Hence, note of the said clause in respect of marriage after retirement will not be recognized for the purpose of family pension in not only illegal but also violation of Article 14 of the Constitution of India.

11. That your petitioners state that Section 5(i) of the Hindu Marriage Act, 1955 provides that a marriage will be solemnized between any two Hindus, if neither party has a spouse living at the time of the marriage.

It is, therefore, evident that the petitioners' marriage was solemnized after the commencement of the Hindu Marriage Act, 1955 and there was no contravention of the condition specified in Section 5(i) of the Hindu Marriage Act, 1955.

It is further submitted that there is no dispute that the petitioner no. 2 is the wife of the petitioner no. 1, hence, as per the present position of law, the name of the petitioner no. 2 is required to endorse of family pension entitlement of post retiral spouse in the pension payment order of the pensioner.

12. That your petitioners further submitted that the petitioner no. 1 has already complied with all procedure and submitted the relevant documents to the authority concerned for endorsement of family pension entitlement of post-retiral spouse in the pension payment order of the pensioners as per the Memo. No. 1886—F(Pen) dated 8th December, 1994 but the authority concerned denied the same on the ground that the said order is for Government employees and as such the claim of the petitioners have been rejected and/or denied, which is not only illegal but also violation of the Article 14 of the Constitution of India.

13. That your petitioners state that the petitioner no. 1 was the employee under the Govt. of West Bengal and when the Government of West Bengal has extended the benefits for family pension to the Govt. Employee, who shall marriage after retirement as per the said Govt. Memo dated 29.9.1991, 9.12.1994 and 20.3.2006, the petitioner no. 2 is also entitled get the family pension in absence of her husband i.e. petitioner no. 1.

14. That your petitioners state that by Notification 24.03.1976, the Department of Municipal Service, Government of West Bengal categorically stated in Clause 3(1)(vi) and (vii) of the said Gazette Notification inter alia Municipal/Local Body employees being brought at par with government

Employee in respect of pay and the employee should be given retirement benefits as applicable to Government Employee under Death Cum Retirement benefits.

But in the instant case, Govt. Memo dated 29.9.1991, 9.12.1994 and 20.3.2006 extended the similar benefits to it Government employee and depriving the same benefits to the Employees of Municipal Affairs is not only illegal but also arbitrary and discriminatory; hence, the said provision is required to declare ultra vires and cannot be supported by nexus or reasonable classification

15. That your petitioners state that when the Hindu Marriage Act, 1955 has recognized the right of the petitioners as husband and wife and within the meaning of Family members, the said reorganizations and/or right of the petitioners cannot be discriminated by way of administrative instructions, thus, the action of the authority concerned for denying the claim of the petitioners are not only illegal but also bad in law.

16. That your petitioners state that for not reorganization the right of the petitioner no. 2 as wife of the petitioner no. 1, in the definition of family for grant of family pension is also arbitrary and discriminatory.

17. That your petitioners state that Note of the said Rule 2(1)(g) of West Bengal Municipal (Employee's Death Cum Retirement Benefits Rules, 2003 is not only illegal but also bad in law. Accordingly, the said provision is not only illegal but also arbitrary and discriminatory; hence, the said provision is required to declare ultra vires and cannot be supported by nexus or reasonable classification.

18. That your petitioners states that when the statute i.e. Hindu Marriage Act, 1995 has recognized the right of the petitioners as husband and wife, that Note of the said Rule 2(1)(g) of West Bengal Municipal (Employee's Death Cum Retirement Benefits Rules, 2003 and the and the administrative instructions and/or orders cannot be denied the claim of the petitioners for grant of family pension in absence of the petitioner no.1 and as such, no justification as to why post-retirement marriages should have been kept out of the purview of the definition of Family.

It is further submitted that two limitations incorporated in the definition of "Family" suffer from the vice of arbitrariness and discrimination and cannot be supported by nexus or reasonable classification. The words "Provided the marriage took place before retirement of the Government servant and after retirement are ultra vires Article 14 of the Constitution of India.

19. That your petitioners states that the Hon'ble Apex Court held in the matter of Bhagwanti-Vs-Union of India if the family pension is payable to the widow or the husband as the case may be, of the Government servant, the category which the definition keeps out, namely, those who have married after retirement and offspring of regular marriage born after retirement is discriminatory.

It is further held that pension is payable, as pointed out in several judgement of this Court, on the consideration of past serve rendered by the Government servant, playability of the family pension is basically on the self-same consideration, since pension is linked with pas service and the avowed purpose of the pension rules is to provide sustenance in old age, distinction between marriage during service and marriage after retirement appears to be indeed arbitrary.

20. That your petitioners state that Hon'ble Supreme Court held that family pension is admissible on account of the fact that the spouse-contributed to the efficiency of the Government servant during his service career. In most case, marriage after retirement is done to provide protection, secure companionship and to secure support in old age. The consideration upon which pension proper is admissible of the benefit of the family pension has

been extended do not justify the distinction envisaged in definition of "Family" by keeping the post retiral spouse out of it.

22. That your petitioners state that action of the authority concerned creates continuous depriving the employees of the Municipal Affairs, hence, the question of delay if any, does not arise at all.

23. That your petitioners state that this Hon'ble High Court held in the matter of Dr. Deba Prasad Mukhopadhyay-Vs-State of West Bengal and Ors held on 14.11.2017 inter alia in respect of Government Employee is granting that benefit but in respect of non-government aide collage, the Government is not extending that benefit which is discriminatory, unfair and unjust. Ultimately, in compliance with the said judgement and order of the Hon'ble High Court, the authority concerned has already extended the said benefits.

Your petitioners crave leave to produce the judgement and compliance order at the time of hearing if necessary.

24. That your petitioners state that it is settled law that the right to receive pension and gratuity is not a bounty but a statutory right in as much it is right to property within the meaning of Article 300A of the Constitution of India and as such the authority cannot deprive the petitioners such legal right

any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest in view of the present position of law.

25. That being aggrieved by and dissatisfied with the action on the part of the concerned respondent for endorsement of family pension entitlement of post retiral spouse in the pension payment order of the pensioner to forward the same to the authority concerned for issue of corrigendum Pension Payment Order, your petitioners beg to move this application under Article 226 of the Constitution of India on the following amongst other:-

GROUND

- I. For that the total inaction on the part of the concerned respondent for illegally, arbitrarily and intentionally denying the claim of the petitioners for endorsement of family pension entitlement of post retiral spouse in the pension payment order of the pensioner to forward the same to the authority concerned for issue of corrigendum Pension Payment Order, which is not only illegal but also bad in law.
- II. For that that the petitioner no. 1 has already complied with all procedure and submitted the relevant documents to the authority

concerned for endorsement of family pension entitlement of post retiral spouse in the pension payment order of the pensioners as per Govt. Order dated 27.9.1991, the Memo. No. 1886—F(Pen) dated 8th December, 1994 and 20.3.2006 but the authority concerned denied the same on the ground that the said order is for Government employees and as such the claim of the petitioners have been rejected and/or denied, which is not only illegal but also violation of the Article 14 of the Constitution of India.

- III. For that the petitioner no. 1 was the employee under the Govt. of West Bengal and when the Government of West Bengal has extended the benefits for family pension to the Govt. Employee, who shall marriage after retirement as per G.O. Dated 27.9.199, the said Memo dated 9.12.1994 and 20.2.2006, the petitioner no. 2 is also entitled get the family pension in absence of her husband i.e. petitioner no. 1. But in the instant case, the authority concerned did not take any steps, which is not only in violation of Article 14 of the Constitution of India but also arbitrary and discriminatory.
- IV. For that when the Hindu Marriage Act, 1955 has recognized the right of the petitioners as husband and wife and within the meaning of Family

members, the said reorganizations and/or right of the petitioners cannot be discriminated by way of administrative instructions, thus, the action of the authority concerned for denying the claim of the petitioners are not only illegal but also bad in law.

- V. For that for not reorganizing the right of the petitioner no. 2 as wife of the petitioner no. 1, in the definition of family for grant of family pension is also arbitrary and discriminatory.
- VI. For that Note of the said Rule 2(1)(g) of West Bengal Municipal (Employee's Death Cum Retirement Benefits Rules, 2003. Accordingly, the said provision is not only illegal but also arbitrary and discriminatory; hence, the said provision is required to declare ultra vires and cannot be supported by nexus or reasonable classification.
- VII. For that when the statute i.e. Hindu Marriage Act, 1995 has recognized the right of the petitioners as husband and wife, that Note of the said Rule 2(1)(g) of West Bengal Municipal (Employee's Death Cum Retirement Benefits Rules, 2003 and the administrative instructions and/or orders cannot be denied the claim of the petitioners for grant of family pension in absence of the petitioner no.1 and as such, no

justification as to why post-retirement marriages should have been kept out of the purview of the definition of Family, hence, the said provision is required to declare ultra vires and cannot be supported by nexus or reasonable classification.

VIII. For that two limitations incorporated in the definition of "Family" suffer from the vice of arbitrariness and discrimination and cannot be supported by nexus or reasonable classification. The words "Provided the marriage took place before retirement of the Government servant and after retirement are ultra vires Article 14 of the Constitution of India.

IX. For that the Hon'ble Apex Court held in the matter of Bhagwanti-Vs-Union of India if the family pension is payable to the widow or the husband as the case may be, of the Government servant, the category which the definition keeps out, namely, those who have married after retirement and offspring of regular marriage born after retirement is discriminatory in view of the present position of law, your petitioner is entitled to get the family pension and as such it is under obligation on the part of the concerned authority to complete and pay the said family pension forthwith but in the instant case the authority concerned

authorities are sitting tight over the serious matter, which is not only illegal but also bad in law.

- X. For that it is settled law that the right to receive pension and gratuity is not a bounty but right in as much as it is a right to property within the meaning of Article 300A of the Constitution of India and as such the authority concerned cannot deprive the Petitioners such legal right any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest as per existing law.
- XI. For that total actions on the part of the concerned respondents are otherwise and bad in law.
26. That your petitioners state that further issuance of demand of justice will be futile and unless formalities.
27. That the entire records are lying in the office of the concerned respondent within the jurisdiction of this Hon'ble High Court.
28. That this application is made bonafide and for ends of justice.

In the above facts and circumstances of the matter, your petitioner most respectfully prays that your Lordships would be graciously pleased to issue:-

a) A writ or writs in the nature of Mandamus commanding the respondents, their men, agents, assigns, successors-in-office, representative and each of them to declare that that Note of the said Rule 2(1)(g) of West Bengal Municipal (Employee's Death Cum Retirement Benefits Rules, 2003 and the administrative instructions and/or orders are ultra vires Article 14 of the Constitution of India and cannot be supported by nexus or reasonable classification release Family Pension forthwith.

c) A writ or writs in the nature of Mandamus commanding the

respondents, their men, agents, assigns, successors-in-office, representative and each of them to set aside the purported decision dated 14.1.2019 and to direct the authority concerned for endorsement of family pension entitlement of post retiral spouse in the Service Book and pension payment order of the pensioner i.e. petitioner no. 1 and forward the same to the authority concerned for issue of corrigendum Pension Payment Order forthwith.

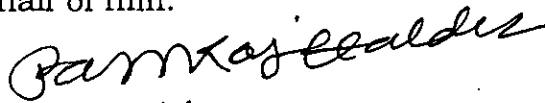
d) A writ or writs in the nature of Certiorari directing the respondents, their men, agents and each of them to produce all the relevant records of the case at the time of hearing before this Hon'ble High Court so that conscionable justice may be administered.

e) A Rule NISI in terms of the prayers (a) (b), (c) and (d) hereinabove.

f) Any other writ or writs and/or order or orders including all cost incidentals thereto and pass such other order or orders and/or direction or direction, as Your Lordships may deem fit and proper.

And your petitioners, as in duty bound, shall ever pray.

Certified that the petitioner no.1 is authorized by the petitioner no. 1 to affirm this affidavit on behalf of him.



Advocate



AFFIDAVIT

I, Ajit Kumar Saha, Son of late Kumode Bandhu Saha, Residing at A20, School Road, P.O. Sodepur, District : North 24-Parganas, Kolkata : 700110, aged 74 years, by religion -Hindu, by occupation retired employee, do hereby solemnly affirm and say as follows:-

1. That I am the petitioner No. 1 in the instant petition and as such am well acquainted with the facts and circumstances of the case and I am authorized by the petitioner no. 2 to affirm this affidavit and I am competent to affirm this affidavit.

2. That the Statements made in paragraphs 1-8 thereof are true to my knowledge, and the statement made in paragraphs my information which I verily believe to be true and those made in paragraphs 9-28 are my respectful submissions before this Hon'ble Court.

Prepared in my office.

Pamraj Choudhary
Advocate.

Ajit Kumar Saha

The Deponent is known to me.

S. Naskar
Clerk to Mr. Haridas Das
Advocate.

Solemnly affirmed before me on this
the 30th day of March, 2021.

Signed in presence of me. COMMISSIONER.

Pamraj Choudhary
Advocate

Annexure - R/1

- 8 -

PANIHATI MUNICIPAL OFFICE

- 22 -

PANIHATI, KOLKATA-700 114

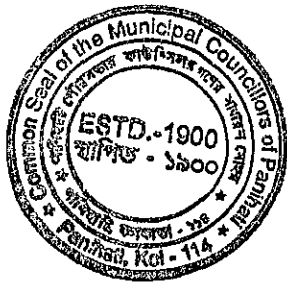
Phone : 2553-2909, 2563-4457 ★ FAX : 2553-1487

Dated..... 31.01.2007

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Shri Ajit Kumar Saha son of Late Kumode Bandhu Saha a permanent resident of A-20, School Road, P.O. Sodepur, Dist. North 24 Parganas, Kolkata - 700 110, West Bengal was the Secretary of the Panihati Municipality and has retired from service on superannuation with effect from the afternoon of 31st day of January, 2007 as he attains the age of 60 (Sixty) years. He bears an unblemished conduct and I wish him upliftment.

Accordingly, his date of birth as recorded in the service book maintained by this municipality is 02nd day of January, 1947 (One thousand nine hundred forty seven).



(Handwritten signature)

(MONORANJAN SARKER)
Chairman
Panihati Municipality

(Handwritten signature)
31.01.07

HNR./

(Handwritten signature)
30.06.20

Mithu Saha
30.06.2020

Sl. No. 9 (i) The age limit for both son and daughter has been enhanced upto 25 years (Previously 18 years for son and 21 years for daughter or marriage whichever is earlier for daughter) subject to conditions e.g. marriage of unmarried daughter in terms of G.O. No. 324-SE(B) dt. 05.09.2009.

* In terms of 39-SE(B) dt. 10.01.08 divorced/widowed daughter of teaching and non-teaching employees shall be eligible for family pension beyond 25 years of age till their remarriage/death subject to fulfilment of certain conditions.

In terms of G.O. No. 325-SE(B) dt. 05.09.2005 Family Pension for life to children of teaching and non-teaching employees suffering from disorder/disability of mind or are physically crippled/disabled, is admissible subject to conditions laid down in G. O. No. 378-SE(B) dt. 28.07.08 and 10-SE(B) dt. 13.01.09.

Sl. No. 9 to 11 ReIn. - Relation : A - ADULT, M - MINDR
 (ii) Minor's share(s) on Minors' behalf is/are payable to natural guardian and in absence of natural guardian to legal guardian.

On the decease of the pensioner, this order should be immediately returned by his family to the Treasury Officer/Pension Disbursement Officer/ Bank/ Chairman, with a report of the date of his/her demise if the family pension is not admissible to the widow/widower.

Place for signature of Pensioner to be taken at the _____
 time of the first Payment _____
 Date of death of the Pensioner _____ (To be filled in and attested by the Treasury Officer/P.D.O./Bank)

Month of which pension is due	Date of payment	Amount	Disbursing Officer's initials	Note of pensioner's identification
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				

** Relief Payable on Pension/Family Pension
 1) Non - Government aided/sponsored education institutions employees/family pension Relief will be payable as per Govt. Orders issued from time to time
 2) Pension authorized under Govt. Order No. 17/III/Panchayati/2P-2/98 dt. 01.01.90 (Pensioners under Panchayat bodies) Read with No. 2468/VI/II/Panch/2P-2/98 dt. 19.11.91.
 From 01.01.86 (OR From date of Commencement of Pension)
 Deptt. Of Panchayats Order No. 3A/III/PANCH/2P-2/98 dt. 01.01.90 and similar Govt. orders issued from time to time from Panchayat and Rural Dev. Deptt.

iii) Pension of Municipalities/Corporations/Notified Areas - Relief on Pension as per Govt. Order No. 377/C-9/M 20-5/90 dt. 18.11.93 (where it is admissible) of Municipal Affairs Department and other subsequent Govt. Orders issued from time to time by Municipal Affairs Deptt.

1. Authorities who can sign Life Certificate :
 Officer, RBI/Public Sector Bank, GrA Officer of State Govt., Gazetted Officer of Central Govt. Registrar/Sub-Registrar, Police Officer not below the Rank of S. I., Post Master, Deptt. Sub-postmaster, Inspector of P.O., A.I./S.I. of Schools, MLA, MP, Chairman, Municipal Corporation etc.

2. Period of submission of Life Certificate :
 Life Certificate should be submitted within November each year otherwise pension/family pension will be withheld from December onwards.

3. In case of death of the pensioner/family pensioner :
 The fact shall immediately be intimated to Treasury Officer/Pension Disbursing Officer/ Bank/Chairman.

4. The Pensioner/Family pensioner may intimate his/her PAN No. to the Treasury Officer/ Pension Disbursing Officer.

5. In terms of Memo No. 27-SE(B)/1M-13/08 dt. 02.02.2009 permission is accorded for credit of Pension/Family pension to a joint account operated by the Pensioner/Family pensioner in addition to the existing practice.

From Prapage
 Sl. No. 7A(iii) *including addl. Interest @ 5% per annum
 (B) Family Pension - In case of more than one wife, family pension is payable in equal share. After death of one her share will be ceased.

Sl. No. 9 Enhance Family Pension (E.F.P.) - Enhanced family pension (upto a period of 7 years or 67 years of age of the incumbent, whichever is earlier). * For Municipality/ Corporation/ Notified Area Authority (upto a period of 5 years or 65 years of age of the incumbent whichever is earlier).
 Normal Family Pension (till death or remarriage whichever is earlier of Family Pensioner).

NORMAL FAMILY PENSION (N.F.P.)

(Signature)
 30.06.20
 Mithul Saha
 30.06.2020

Issue Date: 17/06/2014

No. 20031110488/DC/2014
নং.

Form - 6 [Rule 9 of the W.B.P.S.O. Rules 2000]

(করম-৬) পংখ: জন্ম-মৃত্যু সঞ্জিকরণ বিধি, ২০০০ এর ৯ নং বিধি
Govt. of West Bengal. Department of Health & Family Welfare
(পশ্চিমবঙ্গ সরকার, স্বাস্থ্য ও পরিবার কল্যাণ দপ্তর)

Name of the Organisation issuing Certificate : **Panihati Municipality**

(যে দপ্তর কর্তৃক প্রদানপত্র দেওয়া হচ্ছে তার নাম)

DEATH CERTIFICATE

(মৃত্যু প্রমাণ পত্র)

(Issued u/s. 12/17 of the RBD Act. 1969 and Rule 9/14 of the WBRED Rules 2000)

(১৯৬৯ সালের জন্ম-মৃত্যু সঞ্জিকরণ আইনের ১২/১৭ ধারা এবং পংখ: জন্ম-মৃত্যু সঞ্জিকরণ বিধি ২০০০ এর ৯/১৪ নং বিধি অনুযায়ী প্রদত্ত)

This is to certify that the following information has been taken from the original record of death which is in the register for (Local Area) : Panihati Municipality of Khardah P.S./Block North 24 Parganas District of West Bengal.

ইহা নিশ্চিতভাবে ভািত করা হইতেছে যে নিম্নবর্ণিত বিবরণী মূল মৃত্যু নথি হইতে লওয়া হইয়াছে, উক্ত নথি পংখ: রাজার North 24 Parganas জেলার Khardah থানার স্কলের অধীনে Panihati Municipality (স্থানীয় এলাকা) মৃত্যু রেজিস্টারে লিপিবদ্ধ আছে.

Name of the deceased : **PURNIMA SAHA**

(মৃত ব্যক্তির নাম)

Date of Death : **15/05/2014**

(মৃত্যুর তারিখ)

Name of mother of the deceased :

(মৃত ব্যক্তির মাতার নাম)

Name of Father/Husband of the deceased : **AJIT KUMAR SAHA**

(মৃত ব্যক্তির পিতা/স্বামীর নাম)

Address of the deceased at the time of Death : **HOUSE**

(মৃত্যুর সময় মৃত ব্যক্তির ঠিকানা)

Permanent Address of the deceased : **A - 20, SCHOOL ROAD, SODEPUR - 700110, P.S. KHARDAH, NORTH 24 PGS**

(মৃত ব্যক্তির স্থায়ী ঠিকানা)

Registration No : **WB_DR_2014/20031/1/943**

(সঞ্জিকরণ নং)

Remarks (if any) : **NOT AVAILABLE**

মন্তব্য (যদি থাকে)



"Ensure registration of every birth & death"

(প্রতিটি জন্ম ও মৃত্যু সঞ্জিকরণ সুনিশ্চিত করুন)

17/06/14

[Signature]
30.06.2020

Date of Registration : **19/05/2014**

(সঞ্জিকরণের তারিখ)

Health Officer

and

Registrar of Birth & Death
PANIHATI MUNICIPALITY

[Signature]
17/06/14

Signature of Issuing Authority with date, address & Seal

(তারিখ, ঠিকানা ও সিলসেহর প্রদানকারী কর্তৃপক্ষের স্বাক্ষর)

Location: Marriage Office.
Time: 06:15 P.M.

SCHEDULE - 'C'

Amerakua - 114
Rajib Sarkar

25

CERTIFICATE OF REGISTRATION

[See sub rule (4) of Rule 15]

"If the document is needed for use in Foreign Countries or for acceptance by the foreign missions situated in India, authentication of the document by the designated authority viz., the ministry of External Affairs, Govt. of India is Necessary"

RAJIB SARKAR
Hindu Marriage Registrar
Titagarh, Khardah, Noapara,
& Barrackpore, P.Ss. Area
VIII-Nutanpally, P.O.-Titagarh, P.S.-Khardah
Dist.-24 Pgs. (N). W.B. (India)



Shri Rajib Sarkar

hereby certify that Ajit Kumar Saha

(name of the husband) son of Late. Kumade Banaltee Saha of A-20, School Road, Sodepur, P.O. Sodepur, R.S. Khardah, Kolkata-700110 (W.B.) (address of the husband) and Mithu Saha (name of the wife) daughter of Late. Abinash Chandra Saha of 291/A Green Apartment, H.B. Tower, Sodepur, R.S. Khardah, Kolkata-700110 (address of the wife) appeared before me this 09th day of March 2015 and that each of them, in my presence and in the presence of three witnesses who have signed hereunder, has declared that a Hindu Marriage was solemnised in accordance with the customary rites and ceremonies in terms of section 5 and section 7 of the Hindu Marriage Act, 1955 on 05.02.2015 at 291/A Green Apartment, H.B. Tower, Sodepur, R.S. Khardah, Kolkata-700110 between them and that they have been living together as husband and wife since the time of their marriage, and that in accordance with their desire to have their marriage registered under the Hindu Marriage Act, 1955, the said marriage has this 09th day of March 2015 been registered under the said Act with effect from 05.02.2015

Full signature of Hindu Marriage Registrar with date and seal

RAJIB SARKAR
Hindu Marriage Registrar for
Titagarh, Khardah, Noapara,
& Barrackpore, P.Ss. Area
VIII-Nutanpally, P.O.-Titagarh, P.S.-Khardah
Dist.-24 Pgs. (N), W.B. (India)



Full signature and LTI of the Husband with date

Ajit Kumar Saha 09/03/15

(LTI and RTI in case of illiterates)

Full signature and LTI of the Wife with date

Mithu Saha 09/03/15

(LTI and RTI in case of illiterates)

Full signatures and LTI with date and addresses of three witnesses are as follows :

- Aman Kumar Mukherjee
Stepa Road, Kharapara, P.O. Kharapara, Near Houshora, Kolkata-700110 09/03/15
- Tulsi Saha
291/A Green Apt, H.B. Tower, Road no-7, P.O. Sodepur, Kolkata-700110 09/03/15
- Mullicka Das
A-20, School Road, Sodepur, Kolkata-700110 09/03/15

Schedule of children (with date of birth) born within the marriage (if any) :

- i) Son or /Born onX.....
DaughterX.....
- ii) Son or /Born onX.....
DaughterX.....
- iii) Son or /Born onX.....
DaughterX.....
- iv) Son or /Born onX.....
DaughterX.....

Dated : 09.03.2015

Application Serial No.

13/2015

Date of Application

29/02/2015

Ajit Kumar Saha

Mithu Saha

RAJIB SARKAR
Hindu Marriage Registrar for
Titagarh, Khardah, Noapara,
& Barrackpore, P.Ss. Area
VIII-Nutanpally, P.O.-Titagarh, P.S.-Khardah
Dist.-24 Pgs. (N), W.B. (India)

Incumbent Copy (1) > B A/c. No
Reference: 0040100013135 of Bank of Baroda
Sate Pate. No
(2) Date of birth: 19.09.1975
Date: 24.06.2015 (See Allion Card)
(3) See also for info: enclosed
- 26 -
R/S

To,
The Chairman,
Panihati Municipality,
P.O. Panihati,
Dist. North 24 Parganas,
Kolkata : 700114.

Sub :- Determination of Family Pension under File No. MUN/BRS/011/2007 (Effective following the date of Death of the Incumbent) in favour of SMT. MITHU SAHA in lieu of SMT. PURNIMA SAHA, expired on 15th. day of May, 2014.

Sir,

I beg to inform you that my the then wife PURNIMA SAHA, whose name appears in the original P.P.O. No. BRS/M/5746 and Revised P.P.O. No. MUN/M/BRS00279/2011 under File No. MUN/BRS/0011/2007/Rev as Family pensioner, has expired on 15th day of May, 2014. It may be relevant to be kept on record that I have no son and daughter as at present. Consequent on such expiry I have Re-married to SMT. MITHU SAHA on 05th day of February, 2015.

Accordingly, I request you to kindly consider determination of Family Pension infavour of my wife SMT. MITHU SAHA in lieu of deceased PURNIMA SAHA without any procedural ^{delay} (effective following the Date of Death of the Incumbent) The following documents are annexed hereto to substantiate the case :-

1. Photo copies of Original P.P.O. No. BRS/M/5746 and Revised P.P.O. No. MUN/M/BRS/00279/2011 (File No. MUN/BRS/0011/2007) as an Annexure - "A". (Page 3.....).
2. Photo copy of Death Certificate of PURNIMA SAHA expired on 15th day of May, 2014 as an Annexure - "B" (page 7...).
3. Photo copy of Marriage Certificate duly solemnised on 05th day of February, 2015 as an Annexure - "C". (Page 8 ---).

Hiren Chandra Bera
24/06/2015

Contd. ---P/2.
Hiren Chandra Bera
30.06.20
Mithu Saha
30.06.2020

4. Photo copy of ADHAR CARD issued by the Govt. of India, Vide Enrollment No.111/11655/22599 in favour of SMT. MITHU SAHA, as an Annexure -"D". (Page .9.....).

5. Affidavit in original Swearing before the Learned Judicial Magistrate, 1st. Class, Barrackpore on 23rd June, 2015 as an Annexure -"E". (Page .11.....).

6. B2 Size Photo 4 (Four) Copies.

Yours faithfully,

[Signature]
(AJIT KUMAR SAHA) 24.06.2015

Encl: As stated above.

Dated : 24.06.2015.

Ex.-Secretary,
Panihati Municipality,

Resi. : A-20, School Road,
P.O. Sodepur, Kolkata:700110.

Mithu Saha

(Signature of Smt. Mithu Saha)

Attested. Contact No.: Mob.9903050076.

[Signature]
(AJIT KUMAR SAHA) 24.06.2015

[Signature]
30.06.20
Mithu Saha
30.06.2020

Office of the Municipalities
Panihati Municipality
North 24 Parganas
Comptroller & Auditor
Receipt No. *[Signature]*
Date *[Signature]*
Department *[Signature]*

of the Councilors
Municipality
Panhati, North 24 Parganas
RECEIVED
Contents not verified
Receipt No. 20819
Date 10/4/18
Department

-28-

8/6

GOVERNMENT OF WEST BENGAL

Directorate of Pension, Provident Fund & Group Insurance,
Finance Department,
Purta Bhawan, 2nd floor, Salt Lake, Kolkata -700091

Memo. No. _____/ DPPG/MISC/00001/2018 (SEC)

Date: _____/2018

From: Deputy Director,
D.P.P.G., Govt. of West Bengal.

To: The Secretary,
Municipal Affairs Department, Alipore New Treasury Building
Alipore Police Line, P.O. - Alipore
Kolkata - 700027.

Sub: Consideration of Family Pension to post Retiral Spouse.

Ref: Memo.No.191,dt.-11.8.15. of the Office of the Municipal Councilors,Panihati.

Sir,

With reference to above this is to inform you that Ajit Kumar Saha, an ex-employee of Panihati Municipality retired from service on 31.01.2007. and P.P.O. was issued from this office vide Memo.No.CM/410, dt.-21.08.2007. In the said PPO bearing No.BRS/M/5746 and In the Revised PPO bearing No.MUN/M/BR5/00279/2011 the name of his wife Purnima Saha has been mentioned.

But Mr. Saha re-married Mithu Saha on 09.03.2015 after death of his first wife on 15.05.2014. Now the Chairman of Panihati Municipality has forwarded an application of Mr. Saha who intends to nominate his second wife Smt. Mithu Saha in lieu of Late Purnima Saha.

It may be stated that Finance Department and Education Department of West Bengal Government have already passed order regarding payment of Family Pension to Post retiral Spouse vide G.O.No.1996-F(Pen),dated.-27.09.1991 and 92-SE(B),dated.- 20.03.2006 respectively.

There is no Government Order of Municipal Affairs Department, Government of West Bengal regarding this matter

You are requested to consider the case and take necessary action accordingly.

sd/-

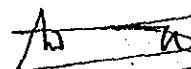
Deputy Director,
Pension, Provident Fund & Group Insurance,
West Bengal

Date - 05.04.18

Memo.No. 96/9/1(2)

Copy for information to:-

1. The Chairman, Panihati Municipality
P.O.-Panihati,Dist.- North 24-Pgs. Kolkata -700114.
2. Ajit Kumar Saha,
A-20, School Road,Paschim Palli,
P.O.- Sodepur,Dist.- North 24-Pgs.
Kolkata - 700110.



Deputy Director,
Pension, Provident Fund & Group Insurance,
West Bengal

5-4-2018



Office of the
Municipal Councillors of Panihati
Panihati, North 24 Pgs, Kolkata - 700 114
Phone: 2553-2909/2563-4457
Fax : 2553-1487
Website- www.panihatimunicipality.in
Email ID- panihatimunicipality@yahoo.co.in

No.PM/Genl./Pension/18/75

Date: 21.05.2018

To
The Secretary,
Municipal Affairs Department,
Alipore New Treasury Building,
Alipore Police Line,
Kolkata - 700 027

Sub: Consideration of Family Pension to post Retiral Spouse.

Ref: Memo No. DPPG/MISC/00001/2018(SEC) dt.05.04.18
of the Deputy Director of Pension, Provident Fund & Group
Insurance, addressed to yourself.

Sir,

With reference to the above, I beg to enclose herewith a copy of the office memo No. PM/Genl./Pension/18/74 dated 21.05.2018 addressed to the Dy. Director of Pension, Provident Fund & Group Insurance, West Bengal along with annexures which will speak for itself.

I would request you to consider the case so that family Pension to Post Retiral Spouse including nomination namely Smt. Mithu Saha in lieu of Purnima Saha expired on 15.05.2014 wife of Sri Ajit Kumar Saha (Pensioner) is accepted as early as possible.

Thanking you,

Yours faithfully,

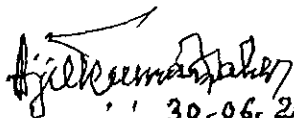

Chairman
Panihati Municipality
Chairman
Panihati Municipality

Swapna Saha.

6/6/18

Officer-in-Charge
Municipal Affairs Deptt.
South 24 Pgs. Alipore

HNR./


30-06-20
Mithu Saha
30, 06, 2020





Office of the
Municipal Councillors of Panihati
Panihati, North 24 Pgs, Kolkata - 700 114
Phone: 2553-2909/2563-4457
Fax : 2553-1487
Website- www.panihatimunicipality.in
Email ID- panihatimunicipality@yahoo.co.in

No.PM/Genl./Pension/18/74

Date: 21.05.2018

To
The Deputy Director,
Directorate of Pension, Provident Fund & Group Insurance,
Finance Department, Purta Bhawan (2nd floor),
Salt lake, Kolkata – 700 091

Sub: Consideration of Family Pension to post Retiral Spouse.

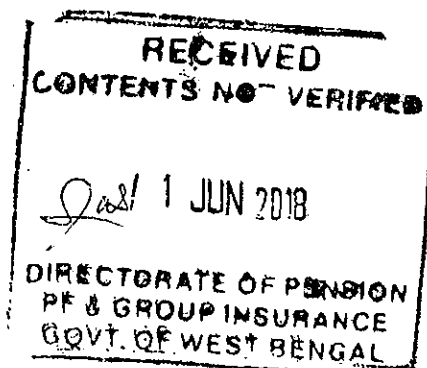
Ref: Your memo No. DPPG/MISC/00001/2018(SEC) dt.05.04.18
addressed to the Secretary, Municipal Affairs Deptt. and a
copy to the undersigned being No.96/1(2) on the self same
date.

Sir,

While appreciating of your aforesaid letter on the subject noted above and to say that payment of Family Pension with nomination to Post Retiral Spouse Smt. Mithu Saha in lieu of Purnima Saha expired on 15.05.2014 wife of Sri Ajit Kumar Saha, Pensioner, an ex-Secretary of Panihati Municipality, is perfectly admissible under the appropriate Provision of the Death-cum-Retirement Benefit Rules, 1971 and/or Finance Department vide G.O. No.1996 F (PEN) dated 27.09.1991 as applicable to the State Govt. employees which will be evident from the Govt. decision communicated vide G.O. No. 1948/M-3R/34/73 dated 31st March, 1978. This office old record also shows in this behalf, the evidence of Govt. Resolution under the No.759/LSG4H/16/76 dated 19th March, 1976 of the Department of Municipal Services published in the Calcutta Gazette extraordinary on March 24, 1976. The said Govt. Resolution and decision are still now valid, operative and binding on all without any hindrance whatsoever.

Photo copies of above mentioned documents duly xeroxed are enclosed herewith for your ready reference.

Contd...P/2




Ajit Kumar Saha
30.06.20
Mithu Saha
30.06.2020

In view of the aforesaid facts and circumstances, I would request you to consider the issue of an appropriate order in the light of the above observation in favour of Sri Ajit Kumar Saha for Family Pension of Post Retiral spouse including nomination for Smt. Mithu Saha in lieu of Purnima Saha expired on 15.05.2014 without any procedural delay.

Thanking you,

Yours faithfully,



Chairman
Panihati Municipality

Chairman
Panihati Municipality

Encl: As stated

Copy forwarded for information to:-

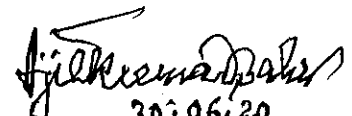
1. Sri Ajit Kumar Saha
A-20, School Road,
P.O. – Sodepur, Dist. North 24 Parganas,
Kolkata – 700 110
2. Estt. Deptt., Panihati Municipality



Chairman
Panihati Municipality
Chairman
Panihati Municipality

HNR./




30.06.20
Mithu Saha
30, 06, 2020

Annexure (E) - 32 -
GOVERNMENT OF WEST BENGAL
Directorate of Pension, Provident Fund & Group Insurance
Finance Department
Purta Bhavan (2nd floor), Salt Lake, Kolkata – 700 091.

Memo. No...../DPPG/MISC-01/2018(SEC)

Date2019

From : Assistant Director
Pension, Provident Fund & Group Insurance,
Government of West Bengal

To : The Chairman
Panihati Municipality
District – North 24 Parganas,
Kolkata – 700 114.

Sub. : Family pension to post retiral spouse.

Ref.: His office Memo no.191 dt.11-08-15.

With reference to above, this is to inform you that as per W.B. Municipal Employees DCRB Rules 2003 vide No.472/MA/0/C-4/1A-9/97 dt.20-08-2003 adoption or marriage after retirement will not be recognized for the purpose of family pension.

[Signature]
Assistant Director
Pension, Provident Fund & Group Insurance
Government of West Bengal

Memo. No. *6819/c*.../1(1)/DPPG/MISC-01/2018(SEC)

Date : *14/01*2019

Copy forwarded for information to :

Ajit Kumar Saha
A-20, School Road, Paschim Palli,
P.O. – Sodepur, District – North 24 Parganas,
Kolkata – 700 110.

[Signature]
Assistant Director
Pension, Provident Fund & Group Insurance
Government of West Bengal

[Signature]
30.06.20
Mithu Saha
30.06.2020

DIST. NORTH 24-PARGANAS
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P.A. No. 6545 of 2021

In the Matter of:

An application under Article 226
of the Constitution of India;

-And-

In the Matter of :

Ajit Kumar Saha and Anr

....Petitioner

-Vs-

The State of West Bengal & Ors.

....Respondents.

PETITION

Mr. Pankaj Halder

Advocate

Bar Association Room No.12

High Court, Calcutta.

(M) : 9733828456