

TRHC010006842026

**HIGH COURT OF TRIPURA
AGARTALA****W.A. No.37 of 2026**

Smt. Ujjwala Rani Paul, D/O. Lt. Rash Bihari Paul, R/O. Dhaleswar, Road No.3, P.O.-Dhaleswar, P.S.-East Agartala, District-West Tripura.

..... Appellant(s).

V E R S U S

1. Agartala Municipal Corporation, To be represented by the Municipal Commissioner, AMC, City center, Paradise Chowmuhani, P.O.-Agartala, Agartala, West Tripura-799001.

2. The Municipal Commissioner, Agartala Municipal Corporation, City center, Paradise Chowmuhani, P.O.-Agartala, Agartala, West Tripura-799001.

3. The State of Tripura, To be represented by the Secretary, Urban Development Department, Govt. of Tripura, Agartala, New Secretariat Building, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.

4. The Secretary, Finance Department, Govt. of Tripura, Agartala, New Secretariat Building, Kunjaban, P.S.-New Capital Complex, Agartala, West Tripura, PIN-799010.

5. The Director, Urban Development Department, Govt. of Tripura, Near Rabindra Satabarsiki Bhavan, P.O.-Agartala, Pin-799001, West Tripura.

6. The Principal Accountant General, O/o the Accountant General (A & E), Tripura, Agartala, P.O.-Kunjaban, West Tripura, PIN-799006.

7. The Senior Accounts Officer, O/o the Principal Accountant General (A & E), Tripura, Agartala, P.O.-Kunjaban, West Tripura, PIN-799006.

.....Respondent(s).

For Appellant(s) : Mr. Purusuttam Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate.

For Respondent(s) : Mr. Dipankar Sarma, Addl. G.A.,
Mr. Arijit Bhaumik, Advocate,
Mr. Agniva Chakraborti, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

CAV reserved on : 03.08.2026.

Judgment delivered on : 18.08.2026.

Whether fit for reporting : YES.

**JUDGMENT & ORDER**

(M.S. Ramachandra Rao, C.J.)

- 1) Heard Mr. Purusuttam Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, counsel appearing for the appellant as well as Mr. Arijit Bhaumik, counsel appearing for the respondents-Agartala Municipal Corporation and Mr. Dipankar Sarma, Addl. Government Advocate appearing for the respondents-State.
- 2) This Writ Appeal is preferred against the judgment dt. 01.04.2026 of the learned Single Judge in WP(C) No.132 of 2025.
- 3) The appellant is the daughter of an employee of the Agartala Municipal Corporation who superannuated on 01.10.2004. After his superannuation, he was receiving pension as per the applicable rules.
- 4) He died on 02.12.2018. His wife had predeceased him.
- 5) At the time of the death of the said employee, the appellant was married to one Pradip Saha. The parties filed for mutual consent divorce before the Judge, Family Court, Agartala which was granted on 04.10.2021.
- 6) The appellant then applied on 23.02.2022 for Family Pension as per the Tripura State Civil Services (Revised Pension) Rules, 2017.
- 7) Her request was rejected by the Agartala Municipal Corporation on 04.10.2024 on the ground that the Memorandum No.F.8(8)-FIN-(G)/96 (P-II)/511, dt.28.03.2018 enabling a divorcee daughter of a State Government pensioner to get Family Pension admissible in the event of death of the pensioner, had not yet been adopted and ratified by the said Corporation and therefore, her case for payment of such pension cannot be considered.

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8) Appellant then filed the WP(C) No.132 of 2025 challenging the said rejection of her claim for Family Pension.

9) In the Writ Petition, she contended that a few days after her marriage, her husband went missing, that she then took shelter in her father's house, and that she was living there for more than 40(forty) years. In support of the said plea, she relied on the judgment and decree dt.04.10.2021 of the Judge, Family Court, Agartala, West Tripura which granted divorce to the parties on mutual consent basis to which decree was annexed the pleas in the Mutual Consent divorce application.

10) She contended that Vide a notification issued on 21.12.1991 by the Local State Government department of the Government of Tripura, the CCS (Pension) Rules, 1972 were adopted for the Agartala Municipality (as it then was).

11) The Agartala Municipality had also issued a notification in January, 1992 stating that the Central Civil Services (Pension) Rules, 1972 were adopted by the Agartala Municipal Corporation w.e.f. 01.01.1992.

12) So, it is contended that every notification issued by the concerned department of the Government of Tripura in respect of extension and application of any benefit under the CCS (Pension) Rules, 1972 became automatically applicable to the officers and employees of the Agartala Municipal Corporation.

13) The Finance Department of the Government of Tripura had issued a Memorandum on 28.03.2018 stating that the provision for Family Pension made in the Central Civil Services (Pension) Rules Tripura (Second Amendment), 2017 is also extended as regards Family Pension to a *legally*

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divorced daughter of the pensioner of the State Government. Procedure prescribed in that regard has been mentioned therein. It was stated that the said benefit will take effect from 01.01.2018.

14) The respondents in the counter affidavit filed before the learned Single Judge have also quoted Rule 8 of the Tripura State Civil Services (Revised) Pension Rules, 2017, which states as under:

“8. PAYMENT OF FAMILY PENSION FOR UNMARRIED/ WIDOW DAUGHTER/DIVORCEE DAUGHTER/DISABLED CHILD:

Family Pension shall be admissible to non-earning unmarried daughter (until her marriage)/widow daughter (until her re-marriage)/divorcee daughter (until restoration of her conjugal life) and disabled children in the event of death of the pensioner and his/her spouse. Criteria for non-earning unmarried daughter/widow daughter/divorcee daughter will be determined on the basis of monthly income upto Rs.3000/-. This benefit shall be effective from 1st day of April, 2017 and shall be extended only in genuine cases after proper verification of the records.”

15) The learned Single Judge agreed with the appellant that as per Rule 8 of the Tripura State Civil Services (Revised) Pension Rules, 2017, a divorced daughter of the original pensioner, who was a Government employee, is entitled to get Family Pension as per the said Rule, subject to the conditions mentioned therein. But he denied her relief on the ground that on the date of death of her father, the appellant was not a divorced daughter at the time of the death of her father as her marriage was subsisting on that date. He held that even if she had separated from her husband and could be dependent on her father, Rule 8 of the Revised Pension Rules, 2017 did not deal with this situation. He held that under Article 226 of the Constitution of India, the High

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Court cannot rewrite a Rule by a stretch of interpretation and it cannot be treated as a case of discrimination amongst one homogenous class of people as only some specified categories of married daughters are entitled to get benefit of Family Pension and not all. Reliance was placed on the judgment of the Supreme Court in *Union of India v. Deoki Nandan Aggarwal*¹.

16) Challenging the same, this Appeal is filed.

The Writ Appeal:

17) Vide a notification issued on 21.12.1991 by the Local State Government department of the Government of Tripura, the CCS (Pension) Rules, 1972 were adopted for the then Agartala Municipality.

18) The Agartala Municipality had also issued a notification in January, 1992 stating that the Central Civil Services (Pension) Rules, 1972 were adopted by the Agartala Municipal Corporation w.e.f. 01.01.1992.

19) So, every notification issued by the concerned department of the Government of Tripura in respect of extension and application of any benefit under the CCS (Pension) Rules, 1972 became automatically applicable to the officers and employees of the Agartala Municipal Corporation.

20) Rule 8 of the of the Tripura State Civil Services (Revised) Pension Rules, 2017 has already been set out above. It also enables a divorced daughter also to get Family Pension.

21) The Pension cell of the Finance department of Govt. of Tripura has also issued a Memorandum dt.28.3.2018 stating that Family Pension will be continued to a divorced daughter of the pensioner as per the definition of 'family' provided in CCS (Pension) Rules, 1972.

¹ 1992 Supp (1) SCC 323

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22) In paragraph-10 of the counter affidavit filed by the respondents, the Agartala Municipal Corporation has stated that a legally divorced daughter is entitled for Family Pension, both as per Rule 8 of the Tripura State Civil Services (Revised) Pension Rules, 2017 and the simultaneous amendment of the CCS (Pension) Rules, 1972, as adopted in the State of Tripura vide notification dt.06.12.2017, subject to the divorcee daughter fulfilling the condition specified therein of having income less than Rs.3000/-.

23) Thus, it is clear that the stand of the Agartala Municipal Corporation in the letter dt.04.10.2024 that the Memorandum dt.28.03.2018 of the Finance Department of the Government of Tripura was not yet adopted and ratified by the Agartala Municipal Corporation, is blatantly false and contrary to record.

24) It is not in dispute that in the divorce petition filed by the appellant and her husband, it was specifically alleged in paragraph-2 that shortly after the marriage of the appellant which took place in 1982, the respondent went away from his residence and did not return home and the appellant took shelter in the house of her father at Agartala.

25) Thus, she was admittedly dependent on her father during his lifetime and also at the time of his death on 2.12.2018.

26) Neither Rule 8 quoted above nor the amendment to the CCS (Pension) Rules, 1972 states explicitly that to claim the benefit of Family Pension, the daughter of the pensioner should be a divorcee at the time of his death.

27) When such a requirement is not provided in the applicable rule, in our opinion, the learned Single Judge erred in reading such a requirement

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into Rule 8. He erred in holding that the condition precedent for entitlement of Family Pension is that the daughter should be a divorced daughter when the original pensioner died because the right to receive such pension accrues on the death of the original pensioner or on the death of his or her spouse, who was receiving pension.

28) In fact, the Government of India had issued an office memorandum on 19.07.2017 which contained in Clause (6) thereof as under:

“the Government of India had decided to grant Family Pension to the divorced daughter even in cases where the divorce proceedings had been filed in a competent Court during the lifetime of the pensioner/employee or his or her spouse, but divorce took place after the death provided that the claimant fulfills all other conditions for grant of Family Pension under Rule 54 of the CCS (Pension) Rules, 1972 and that in such cases Family Pension will commence from the date of the divorce.”

29) This shows that the Government of India has itself accepted the entitlement of a divorced daughter to get Family pension even if the divorce had not happened on the date of death of the pensioner father. The said interpretation of Rule 54 of the CCS (Pension) Rules, 1972 would bind the Agartala Municipal Corporation by virtue of notification in January, 1992 by it referred to in para 18 above.

30) This office memorandum has been quoted by the Division Bench of the Calcutta High Court in ***Union of India and others v. Mita Saha Karmakar*** in ***WP.CT No.36 of 2025*** dt.09.12.2025.

The Calcutta High Court concluded in that case that the respondent had established her claim for Family Pension under the said Office Memorandum issued by the Government of India since in that case, the

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husband of the respondent had filed for dissolution of the marriage during the lifetime of her father and the marriage was dissolved by a decree of divorce, after his death on 19.04.2013, on 01.09.2016. It was also held that the object of granting Family Pension under the memo dt.19.07.2017 was to give pecuniary support to a dependent family member of the deceased and if this requirement is fulfilled, she would be entitled to Family Pension.

31) The Orissa High Court also has taken a similar view in ***Biswamitra Dhal v. State of Odisha and others***².

The Orissa High Court held that the Family Pension scheme is a welfare legislation enacted with the objective for providing financial security to the dependent family members of a retired Government employee/pensioner, and in a situation where the petitioner therein did not incur any of the disqualifications contemplated under the applicable rules and had also obtained a valid decree of divorce, the benefit cannot be denied. It held that a rigid and technical interpretation of the rules denying Family Pension to immediate family members of the deceased pensioner who are dependent on him or her during his or her lifetime would not be proper and would defeat the very object sought to be achieved by the scheme or statute. In that case also, the decree of divorce was obtained after the demise of her father, who was the retired Government employee/pensioner and it was noted that she had been ousted from her matrimonial home and was residing with her parents for a long time prior to the death of her father.

32) Though the counsel for the Agartala Municipal Corporation sought to contend that the recital in the divorce petition about the appellant's

² MANU/OR/0100/2026

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husband deserting her immediately after the marriage, cannot be taken as a face value and has to be doubted, we see no reason to doubt the same. It is difficult to believe that women in India, for the sake of paltry Family Pension would go to the extent of making false pleas in their divorce application and would break up their marriage. Also her husband has also agreed to her plea and had not disputed the same. It is unfortunate that such an unfair stand has been taken by the Agartala Municipal Corporation.

33) In this view of the matter, we are of the opinion that the learned Single Judge erred in not granting relief to the appellant on the ground that she was not a divorcee on the date of the death of her father.

34) Though the learned Single Judge has noticed the judgment of the Calcutta High Court referred to by us, the learned Single Judge took a different view ignoring the fact that in that case, the Calcutta High Court specifically noticed the Office Memorandum dt.19.07.2017 which permitted a divorced daughter to get Family Pension even when the petition for divorce was filed by her prior to the death of her father, who was the original pensioner, though divorce was granted subsequently.

35) The said Office memorandum, therefore, itself indicates that the daughter need not be a divorcee on the date of the death of her father/pensioner to be eligible to get Family Pension.

36) The learned Single Judge has taken a hypertechnical view in the matter on the ground that she was only dependent on her father at the time of his death, but she was still a married daughter though separated from her husband and not a divorced daughter.

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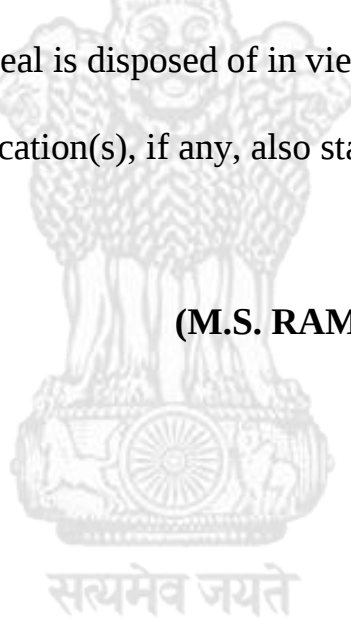
37) Therefore, the Writ Appeal is allowed; the judgment dt.01.04.2026 of the learned Single Judge in WP(C) No.132 of 2025 is set aside and the said Writ Petition is allowed, and the respondents-Agartala Municipal Corporation is directed to pay Family Pension to the appellant from the date she secured the divorce decree, i.e. with effect from 04.10.2021 and continue to pay the same during her lifetime. The arrears of Family Pension shall be paid to the appellant within 3(three) months from today with interest @ 6% per annum on the date they fell due till the date of actual payment.

38) The Writ Appeal is disposed of in view of above terms.

39) Pending application(s), if any, also stands disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)



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