

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 3897 of 2025

Smt. Kajari Karmaker @ Kajari Marick

Versus

The Employees' State Insurance Corporation & Ors.

For the Petitioner : Md. Masudur Rahaman,
Ms. Ahamina Nasrin.

For the Respondent No.1 : Mr. Subal Maitra,
Mr. Arindam Maitra.

**For the Respondent
Nos. 3 & 4** : Mr. Sourav Chaudhuri.

Hearing concluded on : 11.06.2025

Judgment on : 20.06.2025

SHAMPA DUTT (PAUL), J. :

1. The writ petition has been preferred praying for direction upon the respondent no. 1 (ESI Corporation) to grant family pension in favour of the petitioner on the basis of affidavits dated 17.11.2011 and 03.08.2022.

2. The petitioner's case is that:-

"The petitioner's husband namely Gopal Chandra Karmakar alias Kartick Chandra Marik (deceased pensioner) was an

employee of the respondent no. 1/ ESI Corporation, Panchdeep Bhawan, 51, Grant Lane, Kolkata 700012, superannuated on 31/05/1997. The petitioner's husband (deceased pensioner) after his superannuation had applied for pension and accordingly the same was issued vide order no. A-40/16/732/97- Aes.IV, dated 17/11/1998. The petitioner's husband had mentioned the petitioner's name as his spouse in his pension payment order (PPO). The petitioner's husband had affirmed an affidavit on 13/09/2002 before the Notary Public at Alipore wherein he declared that Gopal Chandra Karmakar alias Kartick Chandra Marik are one and the self-same person and identified him only. The petitioner's husband also published the same in the newspaper "Anandabazar Patrika" dated 28.09.2002. The petitioner's husband also affirmed another affidavit before the Learned Judicial Magistrate, 1st Class, at Alipore stating the same. The petitioner's husband died on 01/03/2012 leaving behind the petitioner and his two sons namely Prabir Karmakar and Subir Karmakar and one daughter namely Rina Karmakar nee Ghosh as his legal heirs. That as the petitioner's husband changed his title from "Marik" to "Karmakar", the petitioner also changed her title from "Marik" to "Karmakar" which is evident from her Voter Id

Card and later affirmed an affidavit on 03/08/2022 before the Learned Judicial Magistrate, 1st Class, at Alipore stating the same.”

3. After the death of her husband, the petitioner applied for family pension on 04.08.2022 but till date, no action has been taken by the respondent no. 1.
4. On a RTI information sought for on 26.09.2023, the authority on 06.10.2023 stated that the petitioner's prayer was under consideration.
5. As no action was taken, the petitioner preferred a writ application being WPA 2868 of 2023, where in the Court on 07.03.2024, directed payment of family pension of the petitioner if otherwise found entitled in law. And in case it was found that the petitioner was not entitled to family pension, a reasoned order be passed and communicated to the petitioner.
6. The respondent no. 1 herein denied the entitlement of family pension to the petitioner by passing a reasoned as follows:-

“In compliance with the order of the Hon'ble High Court, Calcutta dated 07.03.2024 (received by this Office on 27.03.2024) in WPA No. 28681 of 2023 (Smt. Kajari Karmakar alias Kajari Marick Vs. The Employees' State Insurance Corporation & Anr.) is of the considered view that for release of Family Pension, the Petitioner should have

submitted Death Certificate in the name of "Kartick Chandra Marick" who was a Pensioner as per this Office records OR the notification in the Gazette of India where Shri Kartick Chandra Marick changed his name to "Gopal Chandra Karmakar". In addition to that the Petitioner has to submit publication regarding change of her surname in the Gazette of India, as per procedure mentioned in DOPT OM dated 12.03.1987. Therefore, the question of release of Family Pension to the Applicant/Petitioner/ Kajari Marick alias Kajari Karmakar does not arise at present as per CCS (Conduct) Rules, 1964 and CCS (Pension) Rules, 1972 & 2021."

7. The petitioner states that her deceased husband affirmed two affidavits regarding change of his name and also published the same in a Bengali newspaper but did not publish the same in the Gazette of India. The petitioner attempted to publish the name changes of her deceased husband in the Kolkata Gazette and accordingly filed one application on 31.07.2024.
8. The said application has been rejected by the concerned department with the remark that:-

"1. As per clause 5 (i) of the GUIDELINES FOR PUBLICATION IN THE KOLKATA GAZETTE, PART-II, Affidavit should be from 1st Class Judicial

Magistrate. 2. The name change was applied for a deceased person by wife. Whereas as per clause 1 & 2 of the GUIDELINES FOR PUBLICATION IN THE KOLKATA GAZETTE, PART-II, such application is to be made by the concerned person only.”

9. Finally the Deputy Secretary to the Government of West Bengal vide letter dated 17.12.2024 requested the petitioner to approach the appropriate authority for complying the order of the regional director ESI Corporation dated 24.04.2024.
10. Now the writ petition.
11. From the copies of documents annexed it appears that the pension payment order dated 02.06.1997 and the pensioner's identity card show the name of the petitioner as Kajori Marik, wife of Kartick Chandra Marik.
12. Though affidavits were affirmed in 2009 and publication made in newspaper showing change of name of the petitioner's husband, **no prayer for such changes were made in the PPO.**
13. The petitioner's husband expired on 01.03.2012.
14. In December, 2023, the petitioner affirmed an affidavit showing change of name.
15. Accordingly the petitioner's name in PAN Card, Voter and Aadhaar Card stand as Kajari Karmakar, but official document (office records) show the name as Kajari Marick.

16. It is appears from the reasoned order dated 24.04.2024 passed as directed by the High Court:-

“1. That Kartick Chandra Marick, Ex- Employee was retired on superannuation on 31.05.1997. As per Form-5 (Details of Family) submitted by Shri Marick on 01.07.1996, the name of family pensioner/spouse found as "KAJORI MARICK".

2. That, Kartick Chandra Marick, Pensioner has taken monthly pension from ESI Corporation upto 01.03.2012 by signing his name as 'Kartick Chandra Marick' in the prescribed LIFE CERTIFICATE (ONCE IN A YEAR) in the presence of an Officer of ESIC.

3. That, on 08.11.2010 and 03.11.2011, as it is evident from office documents that Shri Marick, Pensioner visited in this Office and declared himself as 'Kartick Chandra Marick' in presence of an Officer of ESIC and signed the "Life Certificate" and has been able to authenticate the said Life Certificate by the said Officer of ESI Corporation to grant his pension in his favour. From the records/documents of Finance & Account Branch, RO, ESIC Kolkata, it is also evident that the pension amount has been credited in the bank account of Shri Kartick

Chandra Marick through ECS mandate till his death in each and every month.”

17. No revised pension payment order was either prayed for or issued in this case.

18. Though it appears from one of the affidavits that the petitioner’s husband changed his name (page 20 of the W.P), it appears that at para 1 and 2 of the affidavit, the petitioner’s husband has stated as follows:-

“1. That my name has been recorded in some place as Gopal Chandra Karmakar, S/o. Late Mongal Chandra Karmakar and some places as Kartick Chandra Marick S/o. late Sudhamoy Marick.

2. That Late Mongal Chandra Karmakar and Late Sudhamoy Marick was self same person.”

19. Thus not only has the said Kartick Chandra Marik changed his name to Gopal Chandra Karmakar, he also states that his (alleged) father(s) late Mongal Chandra Karmakar and late Sudhamoy Marik are the same persons.

20. Admittedly there is no such declaration ever made by the said Sudhamoy Marik.

21. Though the grant of family pension is a beneficial social legislation, in the present case there being no proper documents

to support the case of the petitioner, **the writ petition is dismissed.**

- 22.** All connected applications, if any, stand disposed of.
- 23.** Interim order, if any, stands vacated.
- 24.** Urgent Photostat certified copy of this Judgment, if applied for, be supplied to the parties expeditiously after due compliance.

[Shampa Dutt (Paul), J.]