

Government of West Bengal
Finance Department
Audit Branch

No. 11722-F

Calcutta, the 23rd November, 1995

From: Sri N.G Sengupta, Jt. Secy. to the Govt. of West Bengal, Finance Department.

To: The Principal Accountant-General (A&E), Fund Section, 18, Rabindra Sarani, Calcutta-1.

Sub: Final Payment of GP. Fund money of a deceased subscriber having no family.

Sir,

I am directed to refer to your letter Wo. FM/378 III/Out-98, dated 11-1-95 on, the above subject and to say that the matter was placed before the Ld. L.R., West Bengal for his valued option. The extract of Clarification made by Ld. L.R. is given below for your information.

“Ex facie there is a conflict between the provision of Section 4(1)(c)(i) of the Act and those of Rule 31 (ii) of GP.Fund (WBS) Rules framed under the proviso to Article 309 of the constitution of India in as much rule 31 (ii) provides that the amount would be payable to the nominees in case the subscriber leaves no family and the nomination made by him in accordance with the provision of rule in favour of any person subsists. But then rule 32 (1) of the said rules makes it clear that It shall be the duty of the Accounts Officer to make payment as provided in Section A of the RF. Act when the amount standing to the credit of a subscriber in the fund becomes payable. The apparent conflict between Section 4(1) (c) (i) of the Act and rule 31 (ii) of GP. Fund (WBS) Rules appears to have been resolved by Rule 32 (1) which gives primacy to Section 4 of the Act in the matter of making payment whenever any amount standing to the credit of the subscriber in the fund becomes payable.

The succession Certificate Act, 1889 appears to have been repealed and replaced by the Indian Succession Act, 1925(Act 39 of 1925) which is a Consolidating Act and the Grant of succession Certificate is now govern by the provisions contained in the part-X of the Act 39 of 1925. There is nothing in this part of the Act to suggest that in Order to be entitled a succession Certificate one is required to be a legal heir of the deceased. The only right which entitles a person to a succession Certificate is the beneficial interest in the debt, Sub-section (1) of Section-5 of the P.F. Act provides, that notwithstanding anything contained in any law for the time being in force, where any nomination duly made in accordance with rules of the Fund, purports to confer upon any Person the right to receive the whole or any part of the sum standing to the credit of a subscriber, on the death of the subscriber such person shall become entitled to the exclusion of all other persons to receive such sum Sub-section (2) of Section-5 further provides that notwithstanding anything contained in the succession Certificate Act, 1889, any person who becomes entitled as aforesaid, may be granted ‘Certificate under that Act entitled him to receive payment of such sum and such Certificate shall not be deemed to be invalidated or superseded by the grant to any other person of probate or letters of administration to the estate of the deceased. Thus in view of the provisions of Section 5 (2) of the P.F. Act, the nominee in respect, of the P.F. money is entitled to be granted succession Certificate no matter whether he is a legal heir or not in respect of the estate of the deceased”.

Yours faithfully,

Joint Secretary to the
Government of West Bengal