

02-09-2026
Item No.154
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.7455 of 2016

Sougata Ray Barma

-vs-

The State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. Sk. Imtiaz Uddin ...for the petitioner

Ms. Aparna Banerjee, AGP
Ms. Sanjana Basu ...for the State

1. A very well settled proposition of law is required to be discussed in the instant case. That is, whether the family pension received by the family of a deceased employee including medical allowance, would be the acceptable components for consideration of the family income, of an aspiring appointee in died-in-harness category, as per rules.
2. Fact remains that the petitioner's father died while in service on August 17, 2013. Immediately thereafter, the petitioner made an application for appointment on compassionate grounds on September 18, 2014. After much delay, this court intervened and passed an order dated December 1, 2015 in WP No.21299(W) of 2015 directing the District Inspector of Schools (SE), Cooch Behar to take a decision in respect of the petitioner's claim for enlistment of his name under the died-in-harness category in accordance with law.
3. Finally, vide order dated March 3, 2016, the said

respondent considered the petitioner's prayer for compassionate appointment and rejected the same, stating that he would not be eligible in terms of GO No.697-ES/S/IS-18/08 dated July 9, 2009 as the initial gross salary of the Group D staff at the relevant point of time has been calculated to be less than the existing family income of the petitioner.

4. In the impugned order, in calculating the financial hardship of the family in terms of GO No. 697-ES/S/IS-18/08, the District Inspector of Schools has taken into account the family income of the petitioner being comprised with the family pension, dearness allowance of the family pension and the medical allowance.
5. Time and again, this court has categorically held that family pension of the members of the deceased employees may not be taken into consideration as a component of family income while assessing the financial hardship of the family immediately after the death of the earning member.
6. A judgement relied upon by Mr Bari, learned counsel for the petitioner, in this regard in WP No.19850(W) of 2015 (Azharul Islam v. State of West Bengal & Ors.) dated November 11, 2024 is apt on this point. In the said judgement, the court has relied upon a Supreme Court decision in Canara Bank v. Mahesh Kumar reported in (2015) 7 SCC 412.
7. On consideration as above, there shall be no doubt about the error and illegality apparent on the face of the impugned order dated March 3, 2016 passed by the District Inspector of Schools. The basis of calculation of the said respondent

with regard to the family income of the family of the deceased is related substantially, rather absolutely with the family pension including the medical allowance receivable upon death of the earning member of the family. The same is not a valid component to be considered while calculating the family income in order to assess financial hardship of the family.

8. In this case, rather the family income of the petitioner at the relevant point of time ought to have been “nil” in accordance with law.
9. Be that as it may, it is specifically found in the instant order that the basic pension (family pension), DA, MA are not the eligible components to be considered in terms of the settled legal principles for calculation of family income for financial hardship of the family deceased earning employee, immediately after his death.
10. In view of as above, the impugned order of the District Inspector of Schools dated March 3, 2016 is hereby set aside.
11. Let this writ petition be disposed of with a direction upon the respondent-District Inspector of Schools (SE), Cooch Behar to initiate afresh a fact-finding inquiry and conduct the same in accordance with law as discussed above, without taking into consideration the family pension, DA and MA allowable to the family of the deceased employee due to sudden death of the said person.
12. In the process, the respondent authority as above may grant opportunity of hearing to the writ petitioner, if it thinks fit and proper.
13. Let the said respondent come to a decision in accordance with law, within a period of eight weeks from the date of communication of this

order.

14. Needless is to mention, upon finding the petitioner as eligible for being appointed on compassionate grounds, the said respondent authority shall immediately take up appropriate steps for appointment of the petitioner in accordance with law.
15. With the direction as above, the present writ petition is disposed of.
16. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
17. Certified copy of this order, if applied for, shall be made available to the parties.

[Rai Chattopadhyay, J]