

Sl No.17
19.02.2020.
SB-II

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**WPA 305 of 2020
Saraswati Majumder
-versus
The State of West Bengal & Ors.**

Ms. Sabita Khutia(Bhunya)
... for the petitioner.

Mr. Hirak Barman
Ms. Bedashruti Bose
... for the State respondents.

The petitioner claims to be the widow of a primary school teacher. The husband of the petitioner was issued an appointment letter vide Memo No. 228/11.12 dated March 30, 1973. The teacher died-in-harness on July 28, 1977. The widow claims that after the death of her husband provident fund dues were paid to her. The petitioner has not been able to substantiate her claim of receipt of provident fund through any supporting document. It has been submitted that as per her knowledge that she received the provident fund dues.

The Government of West Bengal, School Education Department, Budget Branch by a memo dated November 1, 2010 extended the benefits under the Death-Cum-Retirement Benefit Scheme, 1981 to the employees who died-in-harness prior to April 1, 1981. The petitioner submits that she is entitled to receive the benefits in terms of the aforesaid memo.

Praying for such benefit the petitioner filed a representation before the respondent authorities. The same not being considered the petitioner approached the Hon'ble High Court by filing a writ petition being WP No. 19216(W) of 2018 which was disposed of by a co-ordinate Bench of this Court on November 12, 2018,

inter alia, directing the District Inspector of Schools(P.E), Siliguri to take a decision in accordance with law and to prepare the pension papers of the petitioner in terms of the notification dated November 1, 1990, if the petitioner is otherwise eligible.

The District Inspector of Schools considered the prayer of the petitioner and passed a reasoned order on August 8, 2019 whereby it has been mentioned that during hearing no one can provide any documentary evidence(s) from where it can be ascertained that the teacher though received appointment letter, joined the school and worked at least for one year which is a pre-requisite to get the family pension as per the memo dated November 1, 2010. The hearing of the matter was adjourned to enable all concerned to submit the relevant records, but as there was no evidence the District Inspector of Schools opined that no relief can be granted to the petitioner.

The petitioner is aggrieved by the same.

It has been submitted that it is the duty of the respondents to maintain the records of its employees. The petitioner being the widow does not have any record, as required, in terms of the aforesaid memo.

From the submissions made hereinabove it appears that the pre-requisite for grant of benefit in terms of the aforesaid memo is that an employee has to have at least one year's approved qualifying service in the West Bengal Non-Government aided educational institutions.

In the absence of any document or evidence to show that the teacher actually worked for a period of one year, no mandamus can be issued upon the respondents for granting the aforesaid benefit in favour of the widow.

The District Inspector of Schools (P.E.), Siliguri is directed to take up the issue with the school in

question to find out whether any document is available as evidence of the period of service of the teacher in the school. In the event, such evidence is available that the teacher actually worked in the school for a period of one year then the benefit in terms of the memo dated November 1, 2010 shall be extended in favour of the petitioner.

WPA 305 of 2020 is disposed of with the aforesaid observations.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)