

08.09.2021
item No.4
n.b.
ct. no. 23

IN THE COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7124 of 2021

Smt. Mira Panda
-Vs-
The State of West Bengal & ors.

Mr. Subir Banerjee,
Mr. Abhilash Singha Roy..... for the petitioner.

Mr. Tapan Kr. Mukherjee, A.G.P.
Ms. Saheli Mukheerjee,
Mr. Suman Dey..... for the State.

The petitioner is seeking a fresh pension payment order affording family pension to the petitioner. The petitioner refers to an order dated July 11, 2001 by which the service of the petitioner's late husband was regularized/approved with effect from July 11, 2001 as a Class IV Staff on usual pay and allowances as per grant-in-rules in the vacancy arising out the retirement of Souti Charan Jana by canceling the office memo dated December 30, 1993, The petitioner's husband did not challenge the said order dated July 11, 2001 during his life time and availed all benefits on the basis of the said order.

The petitioner's husband, as appears from the record, was superannuated on January 31, 2008. The petitioner's husband, therefore, worked on the regularized/approved post between July 11, 2001 and January 2008 which is less than eight years.

According to the respondents in terms of the applicable service rules the petitioner would have been entitled to family pension only if the petitioner's

husband had continuously worked for at least ten years in the regularized/approved post. The petitioner's husband having not done so, the petitioner according to the respondents is not entitled to family pension. On behalf of the State, it is further submitted that whatever benefits the petitioner was entitled to, was duly given and/or released. No retiral benefit is pending.

Considering the fact that the qualifying service has not been attained by the petitioner's late husband and that the order dated July 11, 2001 cannot be reopened at the stage after twenty years (the writ petition being filed on March 9, 2021), the writ petition is devoid of merits. The petitioner has not also challenged the order dated July 11, 2001 probably on right advice that the same could not be challenged as the petitioner's husband during his life time did not challenge the same and it is operational for last 20 years.

Considering all these aspects, the writ petition is dismissed.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted to, that, however, any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)