

13.12.2021
Sl. No.4
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16327 of 2021

Rekha Jana
Vs.
Union of India & Ors.

Sk. Rejaul Alam

....for the petitioner.

Mr. Anirban Mitra

....for Union of India.

Mr. Bishwambhar Jha

....for the respondent nos.4 & 5.

Affidavit of service filed in Court today is taken on record.

The instruction given by the respondents to their advocate filed in Court today is kept with the record.

The petitioner is the widow of a former Sepoy in the Indian Army who expired on 10th December, 1982. The petitioner says that the petitioner was receiving family pension since 2nd June, 1986. The family pension was credited to the petitioner's bank account maintained with Central Bank of India, Reyapara Branch, District - Purba Medinipur. It is the further case of the petitioner that all on a sudden from August 1996, the family pension was stopped and/or discontinued. The petitioner had no clue as to the reasons for which it was stopped. The petitioner had been running from pillar to post to get the family pension restarted, but only in 12th June, 2019, the Secretary, Zila Sainik Board Midnapore by issuing a memo directed the Officer-in-charge Records, AMC Records to restart the family pension

with arrears. In terms of the memo dated 12th June, 2019, Sena Chikitsa Corps Abhilekh Karlaya, Army Medical Corps Record Office, PIN - 900450 issued a memo dated 10th July, 2019 directing the Chief Manager, Central Bank of India (CPPC), Mumbai to restart the petitioner's family pension upon due verification and identification. The family pension of the petitioner despite such direction was not restarted, which caused the petitioner to approach this Court by filing the writ petition. In fact, the petitioner had made a representation on 10th November, 2020, but the same also appears to have remained unresolved.

The respondents say that the petitioner has approached the Court after long delay and as such, the writ petitioner should not be entertained.

The fact remains that the death of the employee was known to the respondents and after that the family pension was started. It was incumbent upon the respondents to continue the family pension, but the same was suddenly stopped. The subsequent letter from the side of the respondents do not demonstrate any reason far less any tangible ground to discontinue the family pension. The delay, if any in approaching the Court in the instant case, according to me, is not fatal.

In the facts and circumstances as aforesaid, Sena Chikitsa Corps Abhilekh Karlaya, Army Medical Corps Record Office, PIN - 900450 represented by the Officer-in-Charge Records is added as a party respondent in the writ petition. The petitioner's advocate is granted liberty to incorporate the name and particulars of the added respondent by 16th December, 2021 and serve an amended copy on the

added respondent with the copy of this order by 20th December, 2021.

Since there is already a direction from the side of the added respondent for restarting family pension upon due identification and verification, there is no need to pass the order in their presence save except directing them to carry out their decision as apparent from their memo dated 10th July, 2019.

The respondents are directed to restart the petitioner's pension by 10th January, 2022. The family pension for the month of December, 2021 shall be credited to the petitioner's bank account upon due identification and verification by 10th January, 2022. The petitioner shall cooperate with the respondents for identification and verification. So far as the arrears for month of July/August, 1996, as the case may be, since there is two versions about the month and till November 2021 is concerned, the respondents shall, on due and proper identification, disburse the entire amount with interest @ 6% per annum by 28th February, 2022. The interest on arrears is granted as the petitioner was deprived of the money and the respondents derived benefit out of the same as it remained with them. The rate of interest is fair and justified and also in accordance with the rate permitted by the Hon'ble Supreme Court of India in its recent judgments. The respondents, if are satisfied with the identification and verification of the petitioner, shall continue to pay the family pension to the petitioner month by month within seventh of each successive months for which the same falls due on and from January, 2022. It is made clear that the disbursement in terms of this order will be made only

upon due and proper identification in respect of the petitioner and not otherwise.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

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

(Arindam Mukherjee, J.)