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2021
Ct. No. 2

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

W.P.A. 50 of 2021

Dipti Shyam

-Versus-

The State of West Bengal & Ors.

Mr. Deborshi Dhar

...For the Petitioner

Mr. Subir Kumar Saha

Ms. Bedashruti Bose

...For the State Respondents

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the inaction on the part of the respondent authorities in releasing the family pension to the petitioner, who is an unmarried daughter of the deceased employee.

It is to be noted that by a letter dated November 27, 2019, the Assistant Chief Medical Officer of Health has informed the petitioner that he is unable to process the pension claim of the petitioner on the ground that the Service Book and other relevant papers are not available in his Office.

Learned Counsel refers to a Memorandum dated November 12, 2008 which reads as follows :-

“In cases where either Service Book or any reference No. of the Accountant General (A&E), West Bengal Office is not available, the head of Office may refer the case to its Administrative Department. The Administrative Department may in such cases sanction minimum pension provisionally, subject to genuinity of the claim, and the Head of Office will continue its payment on the basis of that sanction till the Service Book/other relevant documents and/or any reference or Accountant General (A&E), West Bengal is traced out. However approval of Finance Department beyond every year as per existing

provision in this regard is required to be obtained.”

It is clear from the above document that in absence of the Service Book and/or other relevant documents is required to sanction minimum pension provisionally and have the matter clarified from the proper Authorities.

I have heard learned Counsel appearing on behalf of the parties and perused the materials placed on record.

In the light of the above, it is clear that the concerned Memorandum directs start of the minimum pension provisionally to the petitioner.

Accordingly, I direct the Chief Medical Officer, being the respondent No. 4 to treat this writ petition as an application for release of pension and pass a reasoned order keeping in mind the Memorandum referred to above within a period of six weeks from date. The concerned Officer is directed to ensure compliance of the Memorandum by starting the family pension provisionally.

The reasoned order should be communicated to petitioner within a week from the date of passing such reasoned order

With the aforesaid observation the writ petition is disposed of.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order,
if applied for, be given to the parties, on priority basis.

(*Shekhar B. Saraf, J.*)