

WPA 3060 of 2019

**Manju Mukherjee
Vs.
State of West Bengal & Ors.**

Mr. Pratip Kumar Chatterjee

..for the Petitioner

Mr. Avishek Prasad

...for the State

Affidavit in opposition filed on behalf of the State-respondents and affidavit in reply filed by the petitioner are taken on record.

The writ petition pertains to payment of family pension to the widow of a teacher who rendered service in a school for the period from 2nd January, 1962 to 7th February, 1971.

Mr. Pratip Kumar Chatterjee, learned advocate representing the writ petitioner on placing reliance of circular letter dated 1st November, 2010 issued by the Joint Secretary, School Education Department has contended that since the petitioner rendered service from 1962 right upto 7th February, 1971 before leaving the school, therefore, such circular which relates to sanction of pension family pension in favour of employees who retired or died-in-harness prior to 1st April, 1981 is applicable in the present

case and necessary direction is required to be given for sanction of family pension in favour of the widow, being the petitioner in the present writ petition.

Petitioner preferred first writ petition being WP 6157 (W) of 2018 and a coordinate Bench while disposing of the writ petition directed the District Inspector of Schools (S.E.), Murshidabad, respondent no. 2 herein, to take steps in accordance with law for taking decision on approval of deceased husband of the petitioner.

Pursuant to such direction of the coordinate Bench dated 6th September, 2018 the respondent no. 2 has taken up the issue and on hearing the petitioner as well as the school authority passed an order as contained in memo dated 17th December, 2018 whereby the prayer of the petitioner for sanction of retiral dues on grant of approval in respect of service of the husband of the petitioner has been spurned.

This Court has heard learned advocates representing the parties as well as perused the decision of the respondent no. 2 as contained in the impugned memo dated 17th December, 2018.

On perusal of such memo dated 17th December, 2018 it appears that the petitioner's husband functioned as Assistant Teacher in the concerned

school for the period from 2nd January, 1962 to 7th February, 1971 and it has been found by the respondent no. 2 on examining relevant records that the husband of the petitioner left the school and subsequently he died on 11th June, 1988. Such service rendered by the deceased husband of the petitioner was not approved by the concerned respondent authorities. It does not appear from the record that any contemporaneous steps were taken by the teacher concerned for getting his service approved save and except few communications which were made by the school authorities addressed to the respondents. Fact remains at the time of leaving the school petitioner's husband was an unapproved Assistant Teacher.

During course of hearing though reliance has been placed on the circular letter dated 1st November, 2010 for sanction of family pension in favour of the petitioner but it appears from Clause-4 of such circular that for getting the benefit under such scheme which is applicable to the teachers who have retired or died-in-harness before 1st April, 1981 one has to render one year's approved qualifying service. Since in the present case service of the husband of the petitioner remains unapproved,

the benefit of the circular dated 1st November, 2010 cannot be extended to the petitioner.

Accordingly, the writ petition stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Saugata Bhattacharyya, J.)