

20.04.2022
SL No. 78
Court No. 24
(P.M)

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 5098 of 2022

**Kazi Rafiqul Haque
Vs
The State of West Bengal & Ors.**

Mr. Washef Ali Mondal
... for the petitioner

Mr. Biswabrata Basu Mallick,
Mr. Sayan Ganguly
... for the State

The petitioner happens to be the disabled son of a deceased primary school teacher. The father of the petitioner after his retirement was paid pension. After the death of his father the mother of the petitioner received family pension. After the death of his mother the petitioner claimed family pension which is payable to the dependent disabled son.

The petitioner relies upon the disability certificate issued by the Medical Board, Department of Health and Family Welfare, office of the Superintendent of Bolpur Sub-Divisional Hospital, Bolpur, Birbhum.

The District Inspector of Schools by a communicating memo dated 1st October, 2019

requested the petitioner to submit the family pension case with a certificate of the Medical Board declaring his inability to earn livelihood.

According to the petitioner, the certificate of the Medical Board is enough for the District Inspector of Schools to take a decision whether to grant family pension in favour of the petitioner or not.

It has been submitted that the respondent authority ought to act in accordance with the provisions of the West Bengal Primary Education (Teachers and Employees' Death cum Retirement Benefit) Rules, 2008. Rule 30 of the said Rules has been relied upon.

Learned advocate representing the State respondents submits that the petitioner is required to produce a certificate from the Medical Board for the purpose of sanctioning family pension in his favour.

It has been submitted that as the petitioner failed to submit any medical certificate accordingly the District Inspector of Schools failed to take a decision in the matter.

It appears from the submissions made on behalf of both the parties that the decision whether to sanction family pension will depend

upon the certificate issued by the Medical Board.

In the present case, the petitioner already has a disability certificate in his favour issued by the competent Medical Board. The said certificate is signed by three members of the Board. The District Inspector of Schools ought to take a decision relying upon the said disability certificate which was issued by the Medical Board without insisting on production to a further certificate declaring the inability of the petitioner to earn livelihood.

In view of the above, the instant writ petition is disposed of by directing District Inspector of Schools (Primary Education) Birbhum to take a decision with regard to the prayer of the petitioner for grant of family pension relying upon the disability certificate issued in his favour by the Medical Board.

The District Inspector of Schools shall verify the genuineness of the certificate relied upon by the petitioner on 11th April, 2009.

The decision shall be taken by the District Inspector of Schools strictly, in accordance with the provisions of the 2008 Rules mentioned herein above at the earliest but

positively within a period of four months from the date of communication of a copy of this order. The petitioner shall be intimated the fate of his application for grant of family pension.

In the event, the District Inspector of Schools is of the opinion that the family pension is to be sanctioned in favour of the petitioner, then necessary consequential steps shall be taken by the District Inspector of Schools in this regard.

If the District Inspector of Schools is of the opinion that the petitioner will not be entitled to receive family pension, then the reasons for not sanctioning the family pension in his favour shall be communicated to him.

The writ petition is disposed of.

Instruction given by the District Inspector of Schools (Primary Education), Birbhum be retained with the records.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)