

Court No. 22
14.12.2022
(Item No. 35)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 10587 of 2022

Lata Dey
VS
The State of West Bengal & Ors.

Mr. Arun Kumar Maiti
Ms. Kaberi Sengupta (Mohanty)
Mr. Kamal Shaw
..... for the petitioner
Mr. Swapan Kumar Datta
.... For the State

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

Despite service none appears for the respondents, nor any accommodation has been sought for.

Mr. Swapan Kumar Datta, learned senior State counsel who is present in Court, normally appears in this type of matter representing the State. Mr. Datta is requested to appear and hold the brief in this matter along with Mr. Dipankar Dasgupta, learned advocate. Their appearances are directed to be regularized forthwith by the office of the learned Government Pleader.

The petitioner claims to be the divorced daughter of one deceased **Assistant Headmistress** of a school, namely, **Bishnupur Pariwal Devi Girls High School, District – Bankura.**

Mr. Arun Kumar Maiti, learned advocate appears for the writ petitioner submitted that, the

petitioner is the divorced daughter of the said deceased Teacher, namely, Smt. Sikha Dey. The mother of the petitioner after her retirement was receiving pension as would be evident from **Annexure P-1** to the writ petition. Death certificate is also part of **Annexure P-1** to the writ petition. Pursuant to and claiming the benefit under a **Government Memorandum bearing No. 39-SE(B)/1M-19/07 dated January 10, 2008** issued by the Joint Secretary to the Government of West Bengal the petitioner claimed benefit for being a divorce daughter of the Assistant Teacher to receive family pension. The petitioner made representation dated December 16, 2021, **Annexure P-5** to the writ petition before the respondent No. 4. The respondent No. 4 made a communication dated February 9, 2022 to the respondent No. 5 requesting to submit the relevant papers required for disposal of the claim of the petitioner, **Annexure P-7** to the writ petition. The petitioner through her advocate served a justice demand upon respondent No. 4 at **page 33** to the writ petition.

In view of the above, to sub-serve justice the respondent No. 4 is directed to dispose of the said representation of the petitioner dated December 16, 2021 **Annexure P-5** to the writ petition after giving at least seven days prior hearing notice to the petitioner and the respondent No. 5 and then after giving them

an opportunity of hearing shall decide the issue on the same by passing a reasoned order/decision. While conducting the hearing as directed above, the respondent No. 4 shall take into account the said Government Memorandum dated January 10, 2008 as mentioned above and its applicability thereof.

The respondent No. 5 shall furnish all the relevant documents and records relating to the deceased mother of the petitioner namely, Smt. Sikha Dey who was an Assistant Teacher at the said School before the respondent No. 4 positively within a period of two weeks from the date of communication of this order by the petitioner.

The respondent No. 4 then after receiving such records and documents from the respondent No. 5 shall issue the notice of hearing to the petitioner and respondent No. 5 as directed above and decide the issue as directed above positively within a period of six weeks from the date of receiving all records and documents from the respondent No. 5. The respondent No. 4 then shall communicate its reasoned decision to the petitioner and the respondent No. 5 within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merit of the claim of the writ petitioner in any manner and the petitioner shall be at liberty to urge whatever points she wishes to urge by relying upon

whatever records and documents she wishes to rely upon before the respondent No. 4. The respondent No. 5 shall co-operate the respondent No. 4 in all possible manner.

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

In the event, the decision goes in favour of the petitioner then all consequential and necessary steps shall be taken by the respondent No. 4 and he shall send the necessary recommendation along with the reasoned order to the respondent No. 3 positively within a further period of three weeks from the date of communication of the said reasoned order to the petitioner and the respondent No. 3, then after receiving the communication from the respondent No. 4, the respondent No. 3 shall pay and disburse the amount payable to the petitioner in accordance with law within a further period of six weeks after receiving the communication from the respondent No. 4.

It is made clear that, this order shall not create any equity or right in favour of the petitioner, if the petitioner is not otherwise eligible to receive such family pension strictly in accordance with law. While deciding the issue the respondent No. 4 shall also decide and ensure after causing necessary enquiry that, no further or rival claim exists against the petitioner in respect of the said family pension on

account of the deceased mother. The respondent No. 4 shall proceed strictly in accordance with law.

On the above terms, this writ petition being **WPA 10587 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)