

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 15062 of 2018

Syed Hamidul Hasan
Vs.
The State of West Bengal & Ors.

Mr. Ashok Kumar Jena
Mr. Sk. Omar Sarif
... For the petitioner

Mr. Biswabrata Basu Mallick
Ms. Rajlakshmi Ghatak
... For the State

Mr. Sakya Sen
Mr. Sunil Gupta
Mr. Hasibul Islam
... For the respondents no.3 to 5

The petitioner retired from the service of Murshidabad Zilla Parishad on 31st January, 2002 after attaining the age of superannuation. In the service book, the petitioner had nominated his wife for receiving family pension on his death. The petitioner's wife Syeda Hasnara died on 29th March, 2014. It was also mentioned that in the event of death of the petitioner's wife, the petitioner's daughter, Sheda Shirin Hamid will be entitled to the family pension. The petitioner's daughter, namely, Sheda Shirin Hamid, was married to one Jahir Ahmed on 15th May, 2002. The said Jahir Ahmed died on 29th January, 2017. The petitioner says that after the death of Jahir Ahmed, the petitioner's daughter is dependent upon the petitioner and as such,

the petitioner wanted to nominate his daughter Sheda Shirin Hamid as his nominee to receive family pension on his death. This application was made on 27th February, 2017.

In response to such application, the Additional Executive Officer, Murshidabad Zilla Parishad by a memo dated 28th March, 2017 referred the petitioner's application to the Deputy Secretary, Panchayat & Rural Development Department, Government of West Bengal for approval and sanction stating that the petitioner's case is a deserving one.

It further appears from the Death-cum-Retirement Benefit Scheme, 1985 (hereinafter referred to as the "1985 Scheme") governing an employee of Panchayat, widowed daughter is not included in the list of persons entitled to receive family pension.

On behalf of the petitioner, a Notification dated 25th August, 2015, bearing no.4677-F-(J)WB, was made over to the Court on 13th May, 2022. After considering the Notification, I find that the West Bengal Non-Government Educational Institutions, Local Authorities and Other Institutions Employees (Death-cum-Retirement Benefits) Audit Rules, 2015 (hereinafter referred to as the "2015 Rules") has come into effect from the date of the said Notification i.e., 25th August, 2015. The 2015 Rules in the First Scheduled has

included the Death-cum-Retirement Benefit Scheme, 1985 (hereinafter referred to as the “1985 Scheme”) and, as such, the 1985 Scheme has been brought within the ambit of the 2015 Rules. The petitioner further says that under the 1985 Scheme, the definition of “family” as in clause 6(g) includes “widowed daughters” and submits that a widowed daughter should also be considered to be entitled to family pension as per clause 9 of the 2015 Rules, though widowed daughter is excluded from the family pension under the provisions of clause 29 of the 1985 Scheme. The petitioner also relies upon a judgment reported in (2014) 2 Cal LJ 325 (Purnima Das v. State of West Bengal & Ors.).

On behalf of the State, a letter dated 29th June, 2022 written by the Special Secretary, Government of West Bengal and addressed to the Additional Secretary, Finance Department (Law Cell), is made over to Court which is retained with the records. On perusal of the said letter dated 29th June, 2022, it is clear that the State Government never approved family pension to the widowed and divorced daughters of employees who are not State Government employees.

Having regard to such decision which pertains to policy matter and that the 1985 Scheme has not been amended to include the name of widowed and divorced daughters as recipient for family pension as also the 2015 Rules do not specifically provide for family pension

to widowed and divorced daughters, I am not inclined to pass any order and dispose of this writ petition without any further orders.

The writ petition is, therefor, disposed of.

Disposal of the writ petition will, however, not prevent the petitioner from getting other benefits to which the petitioner is entitled to in law being a widowed daughter of an employee of Murshidabad Zilla Parishad as also family pension in case of change in the Scheme/ Rules.

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

(Arindam Mukherjee, J.)