

Court No. 22
09.11.2022
(Item No. 21)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 17476 of 2022

Mousumi Saha
VS
The State of West Bengal & Ors.

Mr. Prahlad Chandra Ghosh
Mr. Subir Hazra
..... for the petitioners
Mr. Saibal Acharya
Ms. Bratati Dutta
..... for respondent No. 5
Ms. Sudipa Ray
Mr. Kanailal Samanta
..... for respondent No. 6
Mr. Supriyo Chattopadhyay
Mr. Arindam Chattopadhyay
..... for the State

The writ petitioner claims a compassionate appointment as her husband died while in his employment as an **Assistant Teacher** at **Amrita Kundu Krishna Kamini Vidyamandir (H.S.), District Murshidabad**. The respondent No. 5 has already taken a decision on the issue dated August 9, 2021, **Annexure P-10** to the writ petition.

This writ petitioner challenges the said decision on the ground that, in terms of the relevant Government Order dated July 9, 2009 as mentioned in the said impugned order the computation of income was not correctly assessed. The writ petitioner admits the gross emoluments of Group 'D' employee in the month of April, 2017 as mentioned in the said impugned order to the extent of was Rs.13,500/-

(revised) and total pension Rs.14,739 (revised) being the petitioner's family pension in the month of April, 2017.

Then the finding of the impugned order was that, **as per the said Government order dated July 9, 2009 for computation of income of such family pension by reducing 60% of family pension stands at Rs.14,843/- which is admittedly more than initial gross emoluments of a Group 'D' employee.**

This particular finding of the impugned order was challenged by the writ petitioner in this writ petition.

Mr. Supriyo Chattopadhyay, learned State counsel represents the respondent Nos. 1, 2 and 5.

Ms. Sudipa Ray, learned advocate represents the respondent No. 6.

Considering the above, it appears to this Court that, justice would be sub-served if the respondent No. 5 is directed to re-visit his finding in the light of the computation already mentioned in the impugned order which are admitted by the petitioner, whether the petitioner is eligible for the compassionate appointment strictly in the light of the provisions made under the said Government order dated July 9, 2009 upon giving a prior hearing notice of at least seven days to the petitioner and the School Authority and after giving them an opportunity of hearing and then shall pass its reasoned order on the issue.

It is made clear that all other computation in respect of the group 'D' employee gross emoluments and the total family pension received by the family of the deceased employee are not disputed at all.

The entire exercise as directed above shall be carried out and completed by the respondent No. 5 positively within a period of four weeks from the date of communication of this order. He then shall communicate his reasoned order to the petitioner and the respondent No. 6 within a further period of two weeks from the date of the reasoned order to be passed.

In the event, the reasoned order and the finding of the respondent No. 5 goes in favour of the writ petitioner then all consequential steps shall be taken and completed within a further period of ten weeks by the respondent No. 5 from the date of communication of the said reasoned order to the petitioner.

It is made clear that, this Court has not gone into the merit of the claim of the petitioner. This order will be restricted only for the writ petitioner herein and not beyond that. The petitioner shall be at liberty to urge all the points before the respondent No. 5 and shall also be at liberty to rely upon whatever documents and records she wishes to rely upon.

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

It is further made clear that, this order shall not create any equity in favour of the writ petitioner, if she is not otherwise eligible to receive the said compassionate appointment in accordance with law.

On the above terms, this writ petition being **WPA 17476 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.)