

Court No. 22
07.9.2022
(Item No. 14)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 19420 of 2022

Smt. Chandrani Barua
VS
The State of West Bengal & Ors.

Mr. Mukteswar Maity
Mr. Bibek Chatterjee
Mr. Sandipan Maity
Mr. Tanmoy Chakraborty
..... for the petitioner

Mr. Subhrangsu Panda
Ms. Mithu Sinha Mahapatra
Ms. Ina Bhattacharyya
..... For respondent No. 5
Mr. Kapil Guha
..... for the State

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

The father of the writ petitioner namely, Dr. Asit Kumar Roy was a Junior Lecturer in the Department of Geology at Asutosh College, Calcutta. The father of the petitioner had joined his service with effect from April 1, 1957 as a permanent teacher. He continued his service in the said College and finally superannuated as a Reader (now Assistant Professor) on June 30, 1993 on attaining the age of superannuation. After such retirement the father of the petitioner was granted extension of service for another period of five years and ultimately retired from such extension with effect from June 30, 1998. In or about 1989 the father of the petitioner exercised his option for staying under the Contributory

Provident Fund Scheme in terms of the Government of West Bengal order dated May 31, 1978. After a while the father of the petitioner changed his mind to change his option and re-opted to stay under the General Provident Fund Scheme. Such option was also forwarded to the Principal of the relevant College. By a letter dated January 29, 1990 the relevant authority of the State refused to agree with such change of option proposal of the father of the petitioner.

Subsequently, the State had come up with a Memorandum dated August 13, 1991, where under the State had announced that the existing members of the teaching staff of the non-Government affiliated Colleges, if so desire, would exercise fresh option, to receive pension (including Family Pension)-cum-Gratuity, i.e. to be under the General Provident Fund Scheme.

Accordingly, the father of the petitioner exercised such option and opted to be under the General Provident Fund Scheme and submitted the said option within the time stipulated before the College Authority.

The College Authority had approved the said last option given by the father of the petitioner on July 21, 2021. The father of the petitioner being the employer died on March 10, 2022.

The petitioner claims that the application for sanction of option dated August 6, 2014 had already been forwarded by the Department of Higher Education to the Finance Department for its consideration as would be evident from the letter dated July 6, 2021 issued by the Joint Director of Public Instruction and State Public Information Officer, Education Directorate, Government of West Bengal. However, during life time of the father of the petitioner, no such benefit was granted to him.

The petitioner then as the legal heir and beneficiary of such benefit made a representation dated July 15, 2022 before the respondent authorities seeking release of Pension, Gratuity with all arrears and other benefits allied thereto on account of her father along with the Family Pension with interest. The said representation dated July 15, 2022 is marked as **Annexure P-6** to the writ petition.

The grievance of the writ petitioner is that till date the said representation dated July 15, 2022 has not been considered and is lying pending.

Mr. Subhrangsu Panda, learned advocate appears for the respondent No. 5.

Mr. Kapil Guha, learned advocate appears for the State.

In view of the above, this Court is of the considered view that, justice would be sub-served if the said representation date July 15, 2022, **Annexure**

P-6 to the writ petition is directed to be considered by the appropriate authority to come to a reasonable conclusion thereupon by way of a reasoned decision/order.

Accordingly, the second respondent is directed to consider the said representation dated July 15, 2022, **Annexure P-6** to the writ petition submitted by the petitioner upon giving at least a seven days pre hearing notice upon the petitioner and the Asutosh College Authority. The said College Authority can be represented through its duly authorized representative. The respondent No. 2 must give an opportunity of hearing to both the petitioner and the College Authority and then shall pass its reasoned decision/order on the issue.

The entire exercise, as directed above, shall be carried out by the second respondent within a period of four weeks from the date of communication of this order. The second respondent shall then communicate its reasoned order to the petitioner and the representative of the Asutosh College Authority within a further period of two weeks from the date of the said reasoned decision/order to be passed.

In the event, the said reasoned order/decision goes in favour of the petitioner, the respondent No. 6 upon his satisfaction to all the necessary formalities, shall forthwith take all steps and further steps to give effect to the said reasoned order/decision to be passed

by the second respondent and shall dispose and handover all the benefits in terms of the said reasoned decision/order to the petitioner within a further period of four weeks from the date of communication of the said reasoned order/decision to him.

It is made clear that, this Court has not gone into the merit of this writ petition. All points are left open for the parties to argue before the respondent No. 2.

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

On the above terms, this writ petition being **WPA 19420 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.

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(Aniruddha Roy, J.)