

137. 05.07.2022
BD Ct.15

W.P.A. 20845 of 2018

Ratna Chowdhury

-vs-

The State of West Bengal & Ors.

Mr. Tarapada Das,
Mr. Chandan Dutta,

....for the petitioner.

Mr. Ranjan Saha

....for the State.

The matter relates to sanction of benefits under Revision of Pay and Allowance Rules 1998 in favour of the petitioner being the widow of deceased teacher who was initially working in a primary school controlled and run by the Asansol Municipal Corporation. On 31st August, 1998 Asansol Municipal Corporation has handed over the primary schools including school of the husband of the petitioner which were run by the Corporation to District Primary School Council, Burdwan along with assets and teachers working in those schools. Husband of the petitioner is one of the teachers who was working in primary school which was controlled by the Corporation and by such handing over of those schools petitioner's husband became a primary teacher under DPSC, Burdwan and the school of the petitioner's husband was started to be run by the DPSC. The said husband of the

petitioner died in harness on 28th March, 2002 and subsequently pension payment order was issued in favour of the petitioner being the widow vide Memo dated 16th March, 2005.

In the present writ petition petitioner has claimed benefit of ROPA 1998 which according to the petitioner has not been extended while issuing pension payment order dated 16th March, 2005.

Mr. Tarapada Das, learned advocate appears on behalf of the petitioner while advancing argument has relied upon the decision of this Court dated 7th April, 2022 passed on the writ petition being WPA 8090 of 2018 (Smt. Dipali Banerjee –vs- The State of West Bengal & Ors.).

According to the petitioner the issue decided in **Smt. Dipali Banerjee (supra)** covers the issue involved in this writ petition.

State respondents are represented by Mr. Ranjan Saha, learned advocate who has submitted that already pension payment order has been issued on 16th March, 2005, therefore, the claim of the writ petitioner for grant of benefit under ROPA 1998 may not be entertained.

This Court after considering the submissions made on behalf of the parties as well as has placed reliance on the decision of this Court

in Smt. Dipali Banerjee (supra); relevant part of the said decision is reproduced below.

“However, it has been clarified that considering the date of retirement of the petitioner on 31st March, 2001 she is entitled to get the benefit of ROPA 1998 while calculating the pension of the petitioner since such ROPA Rules became effective notionally from 1st January, 1996 and actual benefit was extended in favour of the teachers with effect from 1st April, 1997. If while issuing pension payment order upon settling the pension case of the petitioner benefit of ROPA 1998 has not been extended in that event concerned respondent authority is required to issue fresh pension payment order by extending the benefits under ROPA 1998 within a period of eight weeks from the date of communication of this order. While considering the entitlement of the petitioner to receive the benefits of ROPA 1998 the decision of the coordinate Bench dated 3rd January, 2020 passed on W.P. 12195(W) of 2016 (Md. Ghulam Rabbani-vs- The State of West Bengal & Ors.) is relied upon.”

In view of aforesaid decision no separate order need be passed on this writ petition excepting giving direction upon the concerned respondent authorities to extend the benefit of ROPA 1998 in favor of the petitioner, if, such benefit by this time has not been extended to her. If it is found by the respondents that for extending the benefit of ROPA 1998 revised pension payment order is required to be issued in that event steps shall be taken by the concerned respondent authorities to issue revised pension payment order in favour of the petitioner within a period of 8 weeks from the date of communication of this order and the benefits of

ROPA 1998 shall be released in favour of the petitioner within a reasonable time but not later than 12 weeks from the date of communication of this order.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)