

ML-02
Ct No.09
05.12.2022
TN

WPA No. 8394 of 2020

Smt. Manju Chatterjee and another
Vs.
West Bengal State Electricity Distribution Company
Limited and others

Mr. Sarbananda Sanyal,
Ms. Poulami Chakraborty,
Mr. Soumya Basu Roy Chowdhuri
.... for the petitioners

Mr. S.S. Koley
.... for the WBSEDCL

Learned counsel for the petitioners submits that the petitioner no.1's husband (since deceased) was an employee of the West Bengal State Electricity Distribution Company Limited (WBSEDCL) and met with his demise in the year 2011. Although the retiral benefits were already given to the husband of the petitioner no.1 in due time, since after his death, the petitioner and her daughter, the latter being a minor at the relevant juncture, were not paid family pension.

It is candidly submitted on behalf of the petitioners that although the demise took place in the year 2011, the application was made for the first time for disbursement of family pension by the petitioners in the year 2018.

It is contended that since the petitioner no.1 and her daughter were separated from the petitioner no.1's husband, that is, the deceased employee, from prior to his death, there was no scope for the petitioners to learn about the details of his demise etc., which prevented the petitioners from applying in due time.

However, at the present juncture, since the petitioners are seeking such family pension and there is no dispute with regard to the petitioner no.1 being a spouse and the petitioner no.2 being the daughter of the deceased employee, the family pension be disbursed in their favour.

Learned counsel appearing for the WBSEDCL hands over a copy of a document, extracted from the service papers of the deceased employee, which indicates that a joint photograph of the deceased employee and his wife was required on the said form. However, it was written by the deceased employee himself on April 22, 2003 that his wife did not agree to take photograph jointly with him and declared that she would not receive the family pension after his demise.

It is submitted that, as such, the WBSEDCL had no fault on their part in not releasing the family

pension; more so, since there was a considerable delay of about seven years in claiming the same.

Upon a perusal of the materials on record, it is evident that the fact of the petitioner nos. 1 and 2, being respectively the wife and daughter of the deceased employee, are not under dispute at any point of time. It is also clear from the statement of the deceased employee that the wife, that is, the petitioner no.1 was not willing to take a joint photograph with the employee and she declared that she would not receive family pension.

However, due to the rift between the spouses, it is obvious as to why the petitioner had disagreed to take a joint photograph with the deceased employee.

Secondly, whatever was written by the deceased employee, the same cannot operate in law as an admission against the petitioners in any manner, to divest her of her legal right to claim family pension.

Since the petitioners had nowhere stated at any juncture that they were not willing to take family pension, there cannot be any bar in disbursing the same, in view of the petitioners being legally entitled to such family pension.

As such, the petitioners are entitled to family pension on the demise of late Ranjit Kumar Chatterjee, an ex-employee of the WBSEDCL, from the

date of demise of the said employee, that is, October 11, 2011.

Accordingly, WPA No. 8394 of 2020 is allowed, thereby directing the WBSEDCL to expeditiously disburse the family pension with regard to the deceased employee – late Ranjit Kumar Chatterjee – in favour of the petitioners, being the widow and daughter of the said employee. The arrears from the date of demise till date shall be cleared within one month from date, that is, within January 05, 2023.

The current family pension shall also be disbursed in favour of the petitioners in due time thereafter for each of the succeeding months.

The parties shall act on the server copy of this order, without insisting upon prior production of a certified copy thereof.

The document filed today by learned counsel for the WBSEDCL be kept on record.

It is further made clear that the WBSEDCL-authorities shall clarify to the petitioners in the event any photograph/further identity proof of the petitioners are required. If so intimated, the petitioners shall supply the same, as required by law and procedure, to enable the WBSEDCL to disburse the family pension as per the above direction.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)