

01.09.2023

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W.P.A. 2387 of 2020

Chhanda Bal

Vs.

State of West Bengal & ors.

Mr. Syamal Kr. Das

Ms. Krishna Yadav

... for the petitioner

Mr. Jayanta Samanta

Mr. Manas Kumar Sadhu

... for the State

Affidavit-in-opposition filed in Court today is taken on record.

The issue in this writ petition has been decided and is covered by the Special Bench judgement in M.A.T.1518 of 2019 along with CAN 2 of 2019 (old No.CAN 10437 of 2019) (The State of West Bengal & ors. Vs. Sabita Roy) with M.A.T. 608 of 2021 along with CAN 2 of 2021 (The Director of Pension, Provident Fund and Group Insurance & ors. Vs. Kabita Sinha & anr.) with W.P.A. 25396 of 2017 along with CAN 1 of 2022 (Shyamali Maity Vs. State of West Bengal & ors.). The relevant portion of the judgement is delineated below:

“18. We have no hesitation in mind to hold that the unaltered or unaffected Memoranda as above clearly demonstrate in unequivocal terms that a teaching and non-teaching staff who retired prior to 1st April, 1981 or after 1st April, 1981 was entitled to get the pensionary benefits in terms of the DCRB Scheme,

1981. On the demise of such staff, their widows are entitled to get family pension in terms of the modified provision of the scheme 1981 vide memorandum dated 01.11.2010. the unmarried or widows or divorced daughter of an employee who retired prior to 01.04.1981 or after 01.04.1981 is entitled to get family pension on fulfilment of the requirements as per the mechanism introduced vide Memorandum no. 96-SE dated 13.04.2010. In such legal scenario, we do not concur with the decision rendered in ***Bela Rani Acharya and Abida Khatun Sk.*** that an unmarried daughter is not entitled to get family pension till her life ends on the demise of her parent who either received pension or family pension. Though in the decision in MAT 119 of 2014 (***Kumari Reba Ghosh – Vs- The State of West Bengal***), the Division Bench had ruled that unmarried daughter of a pensioner would be entitled to get family pension, but this Bench neither referred to nor interpreted the relevant memoranda relating to extension of family pension to an unmarried/widowed/ divorced daughter. That being the position, we though concur with the final decision, but we respectfully disagree with the observations as recorded therein.

From the memoranda as above it is clearly explicit that the legislative intent was to extend the benefits of family pension to unmarried/widowed/divorced daughter of an employee who retired before or after 01.04.1981 or to unmarried/widowed/divorced daughter of a family pensioner. In such premise, the memorandum dated 1st November, 2010 should not stand in the way of extending such benefits in the absence of any express provision therein restricting or affecting the benefits. Socio-economic justice stemming from the concept of social morality, if pressed into service, the memoranda granting social security of livelihood to the aforesaid classes of women by providing family pension should be construed

liberally. Some isolated terms in the memorandum dated 01.11.2010 providing pension to living employees or their widows, in our view, cannot restrict the beneficial provisions contained in the memoranda as above.

19. Therefore, we answer the reference to this extent that the benefit of family pension can be extended to unmarried/widowed daughter of an employee who superannuated or died prior to coming in force of the Death-cum-Retirement Benefit Scheme, 1981, which came into effect on and from 1st April, 1981.”

In light of the above, it is clear that the present writ petitioner falls within the scope of the judgement passed by the Special Bench and accordingly, the writ petition is allowed.

The prayers (a), (b) and (c) of the writ petition are allowed.

The authorities are directed to ensure that the family pension payable to the petitioner is started within a period of four weeks from date. Furthermore, arrears of pension should be paid to the petitioner within a period of eight weeks from date.

With the above observations, this writ petition is disposed of.

All parties are to act on website copy of this order.

(Shekhar B. Saraf, J.)