

15 15.9.2023

Ct-08

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FMA 1405 of 2022

with

I.A No. CAN 1 of 2022

Gita Rani Mukherjee

Vs.

The State of West Bengal & Ors.

Mr. Tarapada Das

Mr. Mahadeb Khan

Ms. Jonaki Khan

... For the Appellant

Ms. Tapati Samanta

... For the State

1. We have heard the learned counsel appearing for the parties.

2. In view of the admitted position that the husband of the writ petitioner died on March 1981, prior to DCRB Scheme 1981 came into force, we are unable to extend the benefit of pension to the petitioner and accepting the order passed by the Joint Secretary on 18th November, 2019. However, we observe that the Department of Mass Education Extension & Library Services, Government of West Bengal, is the appropriate authority to frame a scheme in tune with G.O No. 539-SE (P &B) dated 1st November, 2010.

3. It appears that Hon'ble Justice Sahidullah Munshi, as His Lordship then was, passed an order in the writ petition being WP 534(w) of 2014, inter alia, to the following effect:-

“If there is no scheme to deal with the cases of the Library Services, the said respondent no. 4 is also directed to frame a scheme within a period of six months as to whether the persons engaged in Library Services can be given benefit of pension or not and after taking such decision to communicate the same to the petitioner.

The said respondent no. 4 is also directed to consider whether DCRB Scheme 1981 can be extended to the case of the petitioner and other like employees of Non-Government Education Institution & Organization which is covered by the aforesaid scheme and whether the benefits could be given subject to adjustment of pension and ex-gratia in appropriate cases.”

4. The Joint Secretary, Department of Mass Education, Government of West Bengal, has although declined to extend such benefit of family pension in terms of DCRB Scheme 1981 in view of the order passed by the Director of Library Services, West Bengal on 29th April, 2014. The Department of Mass Education Extension & Library Services, Government of West Bengal, ought to have considered and framed scheme in order to extend the benefit of pension in similar situation. In absence of framing of any scheme the concurrence of the finance does not arise. We have not been shown any document wherefrom it appears that any

step was taken towards framing of any scheme whether the persons engaged in Library Services were given benefit of pension or not and then to communicate the said decision to the writ petitioner. The decision of the Director of Library Services, West Bengal dated 29th April, 2014 is not in accordance with direction of Justice Munshi.

5. Accordingly, we direct the Joint Secretary/Additional Joint Secretary, Department of Mass Education, Government of West Bengal, to consider the benefit of pension can be extended to the persons engaged in Library Services prior to DCRB Scheme 1981 and if the decision is in the affirmative then to take immediate steps in this regard. The said decision shall also be communicated to the appellant.

6. The entire process shall be completed within a period of three months from the date of communication of this order.

7. On the facts stated in the impugned order, we do not find any reason to interfere with the order passed by the learned Single Judge. However, we feel that the order of Justice Munshi has to be implemented.

8. With the aforesaid direction, the appeal being FMA 1405 of 20222 stands disposed of.

9. In view of disposal of the appeal nothing remains to be decided in the application for stay being CAN 1 of 2022 and the same is accordingly disposed of.

10. However, there shall be no order as to costs.

11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rai Chattopadhyay, J.)

(Soumen Sen, J.)

