

ML- 13.03.2023
16 Ct.15
rkd

W.P.A. 6442 of 2015

Latika Bhattacharya

-vs-

The State of West Bengal & Ors.

Mr. Saibal Acharya,
Mr. Pradip Paul

....for the petitioner.

Ms. Subhra Nag

....for the State.

Petitioner being unmarried daughter of deceased teacher has claimed family pension in view of death of her mother on 24th January, 2007. Father of the petitioner was a teacher who retired on superannuation on 31st July, 1979 and subsequently he died on 22nd December, 1988.

It has submitted on behalf of the petitioner that pursuant to the memorandum dated 1st November, 2010 being No.539-SE (P & B) the benefit of West Bengal Recognized Non-Government Educational Institution Employees (Death-cum-Retirement Benefit) Scheme, 1981 (for short DCRB Scheme, 1981) was extended to the teachers who retired or died prior to 1st April, 1981 under the same terms and conditions.

Father of the petitioner who retired prior to 1st April, 1981 received pension under the "Old Pension Scheme" which was introduced vide

Government Order No.1610-Edn(S) dated 17th August, 1968.

Petitioner's father died on 22nd December, 1988 and at the time of his death he was in receipt of benefit under the "Old Pension Scheme". After the death of the father of the petitioner, petitioner's mother received benefit under the "Old Pension Scheme" till her death on 24th January, 2007. Petitioner being the unmarried daughter of deceased retired teacher has claimed family pension in terms of DCRB Scheme, 1981 which has been extended in favour of the teachers who retired prior to 1st April, 1981.

Learned advocate for the State respondents has opposed such prayer of the petitioner upon placing reliance on the memorandum dated 1st November, 2010. It has been contended on behalf of the State respondents that in terms of the said memorandum dated 1st November, 2010 benefit of DCRB Scheme, 1981 has been extended in favour of the teachers who retired prior to 1st April, 1981 and the widows of such teachers therefore petitioner is not entitled to claim family pension being unmarried daughter.

Having considered the rival submissions made on behalf of the parties and on consideration

of the memorandum dated 1st November, 2010 it appears that the State Government has taken decision to extend the benefit of DCRB Scheme, 1981 to those teachers who retired prior to 1st April, 1981 upon adjustment of the benefit which has been paid to such category of teachers under the “Old Pension Scheme”.

It has also been provided in the memorandum dated 1st November, 2010 that the teachers who retired prior to 1st April, 1981 are entitled to receive the benefits under DCRB Scheme, 1981 under the same terms and conditions. However, on reading of the entire memorandum dated 1st November, 2010, it appears that it has been made amply clear in Clause 4 and Claus 6 that the benefit of DCRB Scheme, 1981 has been extended only to the retired teachers of aforementioned category and their widows. The memorandum dated 1st November, 2010 is silent on the issue whether the benefit of family pension can be granted to unmarried daughters of retired teachers or not.

In view of absence of provisions as contained in memorandum dated 1st November, 2010 relating to sanction of family pension in favour of the unmarried daughters of the teachers

who retired prior to 1st April, 1981, this Court is not inclined to pass order directing the respondents to sanction family pension.

Accordingly, the writ petition stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)