

18.
10.5.2023
S.D.

W.P.A. 9426 of 2023

**Bankim Behari Das
Vs.
The State of West Bengal & Ors.**

Mr. Sabir Ahmed
Mr. Abdur Rakib
Ms. Suman Biswas

..For the petitioner

Mr. Sourav Mondal

..For the Respondent Nos. 3

Mr. Tapas Kumar Mukherjee, A.G.P.,
Ms. Saheli Mukherjee

...For the State

The petitioner's father was working as a permanent employee in the office of the Block Medical Officer of Health, Teghari Block Primary Health Centre. The petitioner's father retired from service and was receiving pension. He died on February 3, 1999. Thereafter, the petitioner's mother received family pension. She died on June 6, 2018. The petitioner made an application for disbursal of family pension since he was permanently physically disabled.

It is the petitioner's grievance that his prayer was not considered by the BMOH. During the pendency of the writ petition, the Senior Accounts Officer, Indian Audits and Account Department issued a communication to the BMOH for furnishing the original Service Book of the deceased

Government employee and if the original Service Book was not available, the same was directed to be reconstructed as per the Government order vide no. 1885-F (P) dated March 2, 2012, with the approval of the concerned administrative department.

Mr. Mukherjee, learned Additional Government Pleader appears on behalf of the State respondents and submits that the petitioner's father was a Government employee and this Court has no jurisdiction to receive, try and entertain the writ petition.

Considering the submissions of the parties, this Court is of the view that the appropriate Tribunal under the Administrative Tribunals Act, 1985 is the forum of first instance to adjudicate the issues in the present writ petition. However, this Court cannot lose sight of the fact that the petitioner being a disabled son of a deceased Government pensioner is not receiving the family pension since 2018. Almost 5 years have passed before Senior Accounts Officer issued a Communication to the BMOH for reconstruction of the Service Book.

In such view of the matter, the Administrative Tribunal having jurisdiction is requested to consider the petitioner's application within a period of three months from date in the

event, an appropriate application is made within two weeks hereof. The communication dated April 27, 2023 is requested to be taken into consideration while adjudication of the issues.

With the directions aforesaid, **W.P.A. 9426 of 2023** is **disposed of**.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained in the present petition are deemed not to have been admitted by the parties.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)