

18.08.2023

Sl. 221

Ct.No. 238

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8756 of 2018

Partha Bhattacharya

Vs.

State of West Bengal and ors.

Mr. Suman Banerjee.....for the petitioner

Mr. Arindam Chattopadhyay

Ms. Paromita Pal.....for the State

The petitioner before this court is an Associate Professor of Bangabasi College in the morning section and his wife was also an Assistant Professor of the same college who unfortunately died-in-harness on 11th December, 2007.

After the death of his wife the petitioner filed a writ petition before this court seeking release of the family pension in his favour. Following an order passed in the writ petition, the Director of Public Instruction, West Bengal (College Education) by an order dated 23rd November, 2016 observed that the petitioner shall be entitled to get family pension as the widower of his deceased wife in terms of Clause 30(b) of the West Bengal Non-Government College Teachers' (Death-cum-Retirement Benefit Scheme), 1974.

The said order dated 23rd November, 2016 was challenged by filing a writ petition before this court at the instance of the minor son of the petitioner who was represented by his maternal grandmother.

This court directed the Director of Public Instruction, West Bengal (College Education) to consider the issue once again upon giving a notice of hearing to the minor son through his maternal grandmother. The minor was allowed to be represented in the hearing.

The Director of Public Instruction heard the petitioner, the minor son and his grandmother to revisit the issue. After hearing, by an order dated 3rd May, 2018 the Director of Public Instruction, West Bengal held that the minor was a member of the family and under the capacity of his grand-mother, maintains a separate family apart from his father. The relevant part of the order runs as follows:

“v. Since, minor son, here Master Sagnik is a member of the Family, and under the custody of his grandmother (though not legally decided), maintains a separate family apart from his father Shri Partha Bhattacharya, the Family pension and the pensionary benefits may also be extended to

him in equal shares along with his father Shri Partha Bhattacharya. The Grandmother of Master Sagnik Bhattacharya shall draw the admissible pension and other benefits on behalf of Master Sagnik till he attains 18 years of age. In that case, an affidavit is to be sworn by the grandmother Sm. Abha Chakraborty before a First Class Magistrate declaring that the amount of family pension will be used for the benefit and maintenance of Master Sagnik Bhattacharya.

Further, Master Sagnik has a right to the property of his mother Nilanjana Chakraborty (since deceased), he has also acquired the right to receive pension as a right in "property".

However, now, being satisfied with the hearing of both sides, I request the college authority to take immediate steps to submit necessary papers with regard to death-cum-retirement benefit in equal shares i.e., Shri Partha Bhattacharya as well as Master Sagnik Bhattacharya since they are maintaining separate families/establishments observing the procedures as state above."

The said order dated 3rd May, 2018 had been challenged before this court at the instance of the petitioner.

It should be noted that during the pendency of the writ petition the minor son has attained majority on 31st December, 2022, and in the meantime, his grandmother has also passed away.

On 7th May, 2023, the petitioner and his son were present before this court. It was submitted by the learned advocate appearing on behalf of the petitioner that the petitioner intends to utilise the arrear pension for the welfare of his son.

When the matter is taken up for hearing today, learned advocate for the petitioner submits that the petitioner is willing to keep the arrear pension in a bank account of his son for his welfare.

In view of the stand taken by the petitioner and the subsequent developments, I dispose of this writ petition with a direction upon the Director of Public Instruction, West Bengal (College Education) to release the arrear pension in favour of the son of the petitioner namely, Sagnik Bhattacharya, within a period of one

month from the date of communication of this order.

The son shall be entitled to the arrear pension from the date of his mother's death till the date of his attainment of majority.

The petitioner shall receive the current family pension as per West Bengal Non-Government College Teachers' (Death-cum-Retirement Benefit Scheme), 1974.

The petitioner shall also get arrear pension from the date of attainment of majority of his son till the regular family pension is disbursed in his favour.

The college authorities shall submit all necessary papers to the Director of Public Instruction, West Bengal (College Education) within a period of 2 weeks from the date of communication of this order.

Learned advocate appearing for the petitioner insisted on payment of interest on the pensionary benefits.

Having regard to the facts of the case, such prayer is not entertained.

Accordingly, the writ petition (WPA 8756 of 2018) is disposed of.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

(Kausik Chanda,J.)