

WPA 11922 of 2023

Purnima Mandal
Vs.
Bangiya Gramin Vikash Bank & Ors.

Ms. Baisali Ghoshal

....for the petitioner

Mr. Baidurya Ghosal

...for the respondent Nos.1 & 2

The petitioner has claimed family pension being the wife of an erstwhile Bank Manager of Bangiya Gramin Vikash Bank (BGVB). The petitioner's husband resigned from service on February 19, 2010. The petitioner's husband was given all the terminal benefits in 2010.

Thereafter, a pension scheme was implemented vide Notification No. 475 dated October 31, 2018. The effective date of the said Notification was on and from April 1, 2018.

Ms. Ghoshal, learned counsel appearing on behalf of the petitioner submits that even though the petitioner's husband resigned from service due to various ailments he should have been considered to be voluntarily retired from service. Even though there was no scheme for voluntary retirement in 2010, the petitioner should be given family pension treating the petitioner's husband resignation as voluntary retirement.

Mr. Ghosal, learned counsel appears on behalf of the BGVB and submits that the 2018 Notification was not applicable to the employees who retired before April 1, 2018. He draws the attention of this Court to Clause 20 of the 2018 Notification and submitted that resignation not amounting to voluntary retirement or dismissal or removal or termination of an employee from the service of the Bank shall entail for forfeiture of entire past service and the employee would not qualify to get pension under the regulations.

Considering the submissions of the parties and the materials placed on record, this Court finds that the 2018 Notification is applicable on and from April 1, 2018. Admittedly, the petitioner's husband *resigned* from service prior to that date. Therefore, the Bank had no occasion to consider whether or not the petitioner's husband *voluntarily retired* from service since there was no provision to consider any case of *voluntary retirement* at that point in time. Whether or not the petitioner's husband fulfilled the criteria for voluntary retirement cannot be considered today. Furthermore, all the terminal benefits have already been given to the petitioner's husband. The applicable scheme would be the scheme that was in force on the date of the resignation of the petitioner's husband. Even under the present scheme a person who 'resigns'

from service will not be considered for pension unless the prayer for voluntary retirement is accepted. The petitioner has not challenged the effective date of the 2018 regulations but prayed pursuant to the same.

There is no perversity or arbitrariness in not considering the petitioner's representation for payment of family pension that was made in January 2023.

In the light of the discussions above, **WPA 11922 of 2023 is dismissed.**

Since affidavits have not been invited in the present writ petition, the allegations made in the writ petition are deemed not to have been admitted by the parties.

All parties are to act on a server copy of this order downloaded from the official website of this Hon'ble Court.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(Lapita Banerji, J)