

08 16.10.2023
rkd Ct.15

W.P.A. 14610 of 2015

Nilima Ghosh

-vs-

The State of West Bengal & Ors.

Mr. Sandip Ghosh,
Mr. Partha Sarkar

....for the petitioner.

Mr. Ayan Banerjee,
Ms. Debasree Dhamali,
Ms. Riay Ghosh

....for the B ally Municipality.

Mr. Deb Narayan Banerjee,
Md. Ahsanuzzaman

....for the State.

Petitioner being the unmarried daughter of a retired employee of Bally Municipality has approached this Court with the present writ petition praying for sanction of family pension due to death of her father.

It is also submitted that the retired employee of Bally Municipality died on 22nd March, 1988. The deceased employee of Municipality superannuated prior to 1st April, 1981. It has been submitted on behalf of the petitioner that the issue has been decided by the Special Bench vide judgment dated 20th June, 2023 wherein in paragraph 19 it has been decided by the Special Bench that benefit of family pension can be extended to unmarried/widowed daughter of an employee who superannuated or died prior to

coming into force of the Death-Cum-Retirement Benefit Scheme, 1981, which came into effect with effect from 1st April, 1981. Therefore, according to the petitioner in terms of observation made in paragraph 19 of the judgment dated 20th June, 2023 petitioner being unmarried daughter of a retired employee of Bally Municipality is also entitled to receive family pension.

Such contention made on behalf of the petitioner is opposed by the learned advocate representing the Municipality on the count that Death-Cum-Retirement Benefit Scheme, 1981 which was considered by the Special Bench in the judgment dated 20th June, 2023 is applicable to the teachers of Non-Government Aided Educational Institutions in the State and the said scheme is not applicable to the employees of Local Bodies and Municipalities. Therefore, accordingly the Municipality the judgment dated 20th June, 2023 may not have application in the present case.

State respondents are represented by learned advocates.

In consideration of the contentions raised on behalf of the respective parties to this writ petition, this Court directs the Director of Local Bodies, Government of West Bengal, being

respondent no.8 to take decision on the claim of the petitioner whether petitioner is entitled to get family pension being unmarried daughter, within a period of eight weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or her representative and the representative of Bally Municipality.

It is made clear that at the time of taking decision by the respondent no.8 the judgment of the Special Bench dated 20th June, 2023 shall be taken into consideration.

The decision to be taken by the respondent no.8 shall be communicated to the petitioner within one week thereafter.

With the aforesaid direction the writ petition stands disposed of.

However, 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.)