

06-01-2023
Item No.12
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.18141 of 2022
Manjusri Mukherjee & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Arijit Pradhan ...for the petitioners

Ms. Sanghamitra Nandi
Mr. Debapriya Chatterjee ...for the State

The petitioners by preferring this writ petition under Article 226 of the Constitution have, inter alia, sought for the followings reliefs:

“(a) A writ of or in the nature of Mandamus by directing and commanding the respondents, particularly the respondent No.8 the calculation of family pension dated 28.09.2021 as per revised PPO issued vide Memo No. K/L/00006/2021 dated 20.04.2021 in favour of Gayatri Mukherjee is quashed and set aside and directing the respondent Nos.6 as representations dated 01.02.2022 and 09.03.2022 revision of the family pension of the deceased mother, Gayatri Mukherjee as per ROPA-1998, dated 29.06.1999 effect from 01.04.1997 and arrears will be calculated from the death of father i.e. on 23.08.1988 till the death of mother i.e. on 23.12.2021 for delay payment of such arrears amount interest @ 10% per annum and forwarded to the respondent No.3 for issuance of the revised PPO in favour of the petitioners for the releasing the said arrears amount of the petitioners.

(b) A writ of or in the nature of Mandamus by directing and commanding the respondents to give interest @10% per annum in the said arrears family pension amount in accordance with law.”

It is contended by the petitioners that the concerned authority of the State-respondents wrongly issued the pension payment order dated April 20, 2021, including therein the normal family pension at Rs.450/- in breach of ROPA 1998. Accordingly, the concerned authority

calculated the pension as per the calculation sheet annexed to the writ petition at page 35. The petitioners submit that they are entitled to get family pension at the rate of 30% of the highest pay admissible to the employee in terms of Memo No. 124-SE(B) dated June 29, 1999 read with Memo No.157-Edn(B) dated June 13, 1990 and Memo No.136-Edn(B) dated May 15, 1985. According to the petitioners, the highest pay upon which 30% would be calculated is of Rs.5345/-. The petitioners allege that the concerned authority in defiance of the relevant Government Orders has wrongly calculated the family pension.

The respondents in their report in the form of affidavit dated December 15, 2022 furnished in court state that ROPA 1998 came into effect on and from April 1, 1997 when the petitioners' father, Manas Mohan Mukherjee, was not in service. Therefore, the pay of the petitioners' father, their family pension and the claim made by them could not be revisited or brought within the ambit of ROPA 1998. The respondents also submit that the family pension of the deceased pensioner was revised once under ROPA 1990 which was implemented on and from January 1, 1986 when the petitioners' father was alive.

Having heard learned counsels appearing for the parties and on consideration of the averments made in the writ petition and the report dated December 15, 2022, I feel that the writ petition may be disposed of by passing the following order.

The petitioners are at liberty to approach the third respondent, the Director of Pension, Provident Fund & Group Insurance, Government of West Bengal, by making a comprehensive representation ventilating their grievance within seven days from date. After receiving such

representation, the third respondent shall consider and dispose of it by a reasoned order giving opportunity of hearing to the petitioners or their authorised representative, within six weeks from the date of receipt of the representation. While disposing of the representation, the third respondent shall bear in mind the previous orders passed by this court from time to time. The order once passed shall be communicated to the petitioners as well as the concerned treasury officer within one week thereafter.

It is made clear that if any further revised pension payment order is issued, the third respondent shall communicate the same to the concerned treasury officer for disbursement of the pensionary benefits including the arrear pension. A copy of the same shall be given to the petitioners.

Till the representation is disposed of, the treasury officer shall not give any effect to the letter dated August 2, 2022 issued by the Senior Law Officer, Pension, Provident Fund & Group Insurance, Government of West Bengal.

With the directions as above, WPA No.18141 of 2022 stands disposed of. No order as to costs.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Rabindranath Samanta, J]

