

Court No. 17

WPA 18192 of 2022

12.04.2023

(AD 2)

(S. Banerjee)

Alaka Dutta

Vs.

The State of West Bengal & Ors.

Ms. Anita Kaunda

... for the petitioner

Mr. Pinaki Dhole

Mr. Avishek Prasad

... for the State

The respondent's advocate Mr. Dhole, in compliance with the order of this court has filed one written notes of submission. The submission part is as follows:

“In the instant writ petition the petitioner has suppressed the fact that she lives with her another working unmarried sister and also has support her. She has also not disclosed that she has another brother who lives at Delhi. From the perusal of the writ petition an impression is created that she has no other near and dear persons other than the brother who has died and for whom she is claiming family pension. She pleaded to have taken financial assistance from the well wisher but is silent about her own other brother and sister which is misleading.

In the instant case it appears from the report that there are several other facts which is not disclosed in the writ petition which has been accepted by the petitioner.

The disclosure of these facts is very material to ascertain the financial position. The elder brother of the petitioner the retired teacher was living with his two unmarried sisters. There are no documents or averment in the writ petition that the other unmarried sister Anu Dutta has not taken part in looking after and helping her brother who is seriously ill as claimed in the petition.

The Purchase of property in 2012 jointly by the two sisters and allowing their brother to live in the same premises shows the integrity and binding amongst the brothers and sisters of the family which goes to show that all the family members look after each other. It has not been claimed in the writ petition that the petitioner is living in a separate mess. There is further no claim in the writ petition that her brother now living in Delhi does not look after the petitioner. The amount of fixed deposit of Rs. 5,00,000/- also goes to show that the petitioner has some surplus amount which she can invest in Bank even after meeting her expenses.

It further appears from the definition that there are no provisions of payment of family pension to the sister of a deceased Employee. In the Death-cum-Retirement Benefits Scheme 1981 the definition for the purpose of the family pension does not include sister of a teacher or non-teaching staff.

It appears from the writ petition that the petitioner has herself annexed the Office

Memorandum of Government of India
Ministry of Personnel, P.G. & Pension,
wherein the payment of family pension in
respect of the Government of India has been
stated in the said order there is no provision
of payment of family pension to the sister of
an employee.

That there is no provision under the
pension scheme for allowing family pension
to a sister of a deceased employee of a school.
If the said prayer is allowed the same will
open a flood gate of applications in similar
cases by suppressing material facts which
will have a very hard impact on the State
Exchequer. It is admitted on perusal of the
report that the petitioner is not in hand to
mouth situation. The State Government and
Central Government has many welfare
scheme for the benefit of the citizen and the
petitioner is free to avail such beneficial
scheme of the Government in case of need.
The petitioner cannot have any order for
family pension under the law and hence the
writ petition is liable to be dismissed in
limini.”

Considering the submission made by the learned
advocate of the respondent, I do not find any merit in
this writ application and the same is dismissed.

(Abhijit Gangopadhyay, J.)