

26.09.2023
SL No.53
Court No.8
(gc)

**MAT 1418 of 2022
CAN 1 of 2022**

**Krishnendu Ghoshal
Vs.
The State of West Bengal & Ors.**

Mr. Arabinda Chatterjee, Sr. Adv.,
Mr. Arkadipta Sengupta,
Ms. Aayushi Mukherjee,
...for the Appellant.
Mrs. Tapati Samanta,
...for the State.

1. The brief summary of facts filed by the State respondents is kept with record.
2. The appeal is arising out of an order dated 4th August, 2022 dismissing the writ petition in which a prayer was made for appointment on compassionate ground due to untimely death of the mother of the petitioner.
3. Mr. Arabinda Chatterjee, learned Senior Counsel representing the appellant has submitted that the District Inspector of Schools has decided the matter without giving any opportunity of hearing to the petitioner to controvert the certificate alleged to have been issued by the Block Development Officer, Jagatballavpur Development Block, Howrah on 10th

December, 2015 certifying that the father of the petitioner had an annual income of Rs.60,000/-.

4. We would have accept the said submission but for inextricable silence being maintained in which petitioner has also in the affidavit-in-reply disclosed retiral benefits received by the father of the appellant after his voluntary retirement with effect from 31st March, 2001. In fact, in Paragraph 13 of the affidavit-in-opposition, the respondent authorities have stated as follows:-

“I most respectfully submit that after scrutiny of the relevant papers, submitted by the Chairman, District Primary School Council, Howrah vide his Memo No.300/H dated 11.02.2013, revealed that the monthly family income of the petitioner was Rs.500/- only which in fact suppression of material facts, committed by the petitioners as it was evident from the Affidavit affirmed on 07.09.2011 by Sri Nemai Chandra Ghosal, husband of the deceased teacher, who declared himself as retired person without disclosing his income from Pension. For which, the Chairman, District Primary School Council, Howrah was requested to submit the details of income of Sri Nemai Chandra Ghosal by Office Memo no.408-Sc/P dated

18/04/2016. The District Inspector of Schools (P.E.), Howrah sent a Report vide Memo No.22/L/P/19 dated 15/03/2019, informing that the father of the petitioner is a retired employee of Central Inland Water Transport Corporation Limited (A Government of India undertaking), whose voluntary retirement was accepted with effect from 31.03.2001 and the amount of monthly Pension was Rs.1110/- and as such, the father of the petitioner had been drawing gross enhanced family pension of Rs.11323/- (Basic Pay = Rs.8165/- + Dearness Relief @ 35% = Rs.2858/- Medical Allowance = Rs.300/-) per month at the material point of time and 60% of Rs.11323/- is equal to Rs.6794/-, therefore, the Annual income of the father of the Petitioner was Rs.60,000/- per annum as certified by the Block Development Officer, Jagatballavpur Development Block, Howrah under Ref No.3606 dated 10/12/2015. The total monthly income of the family of the deceased teacher was Rs.(6794+5000+1110)/- = Rs.12904/-, which is greater than Rs.10200/-, i.e., the initial gross salary of a Gr. D staffs at the material point of time. So, the family of the deceased teacher cannot be considered as financially distressed in terms of the Rule prevalent at the material point of time.”

5. The reply was evasive. In view of the fact that the appellant is having the knowledge

about the retiral benefits received by the father of the appellant, it was incumbent upon the appellant to make a fair disclosure of all income and the retiral benefits received by the father of the appellant in order to assess the financial hardship of the family consequent upon the death of his mother.

6. The learned Single Judge had taken into consideration the aforesaid fact in dismissing the writ petition.
7. We do not find any reason to interfere with the order passed by the learned Single Judge.
8. The appeal and the application, accordingly, stand dismissed.
9. However, there shall be no order as to costs.
10. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)