

59 01-02-2023
AKG
Ct. 238

WPA 21127 of 2018
With
CAN 2/2022
Daibaki Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Saumyan Datta,
Mr. Debsoumya Basak,
Mr. Viswajit Neogi

...for the Petitioner

Mr. Swpan Kr. Datta,
Mr. Tapas Kr. Dey

...for the State

CAN 2 of 2022

This is an application for restoration.

Having regard to the averments made in this application, I am satisfied that the applicant was prevented by sufficient cause from appearing before this Court on November 17, 2022 when the matter was dismissed for default.

Accordingly, CAN 2/2022 is allowed and this writ petition is restored to its original file and number.

WPA 21127 of 2018

The petitioner is an unmarried daughter of a deceased employee of Malda College. Her father was a Laboratory Assistant in Chemistry Department.

The said college is a State-aided college.

After death of the father, family pension was provided to his widow, who also died on January 31, 2010.

By filing this writ petition, the petitioner claims family

pension relying upon an order dated 12th November, 2008, Finance Department, Govt. of West Bengal.

Said government order provides that the widow/divorce/unmarried should apply to the Head Office where her deceased father or mother served at the time of retirement.

I am of the view that the State has rightly contended the notification dated November 12, 2008 is applicable to the State Government only. The petitioner's case is governed by the West Bengal Non-Government Colleges Employees and Day Students' Home Employees (Death-cum-Retirement Benefit) Scheme issued by the Education Department, C. S. Branch, Govt. of West Bengal on 23rd December, 1981.

Clause 30C of the said scheme provides that the family pension shall be applicable in case of the unmarried daughter until she attains the age of 21 years or marriage, whichever is earlier. As of the time of her father's passing in 1993, the petitioner was around 23 years of age. Now, she is estimated to be 53 years old.

In that view of the matter, the petitioner's claim for family pension cannot be entertained.

Accordingly, WPA 21127 of 2018 is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)