

10.10.2023
DL-14
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23127 of 2023

Abdul Rahim Molla
Vs.
The Kolkata Port Trust & Ors.

Mr. Rajnil Mukherjee,
Mr. Masta Fizur Rahaman
.....for the petitioner.
Mr. Ashok Kumar Jena
.....for the respondents.

The petitioner's father was an employee of Syama Prasad Mookerjee Port/Kolkata Port Trust. He died-in-harness on September 25, 1989. Thereafter, the petitioner's mother received family pension. The petitioner's mother died on October 25, 2017. Thereafter, the family pension was stopped. The petitioner claims to be a disabled son/dependant of his father.

Mr. Mukherjee, learned counsel appearing on behalf of the petitioner draws the attention of this Court to a disability certificate issued by M. R. Bangur Hospital, Government of West Bengal dated May 12, 2017. The disability certificate shows that the petitioner has 50% disability.

The petitioner prays for payment of family pension, being a disabled dependant, vide letter dated November 6, 2017.

Mr. Jena, learned counsel appearing on behalf of the Kolkata Port Trust submits that the petitioner was called for assessment by the authorities concerned. He also draws the attention of this Court to the regulations of the Port Trust regarding grant of family pension to the dependants of the deceased employee. He submits that before allowing the family pension for life to any son/daughter, it is mandatory for the appointing authority to satisfy itself as to nature of the handicap suffered by the candidate, which would prevent the candidate from earning his/her livelihood. The Chief Medical Officer (CMO) of the board shall certify the same after examining the exact mental/physical condition of the candidate.

The Chief Medical Officer opined that the petitioner was not suitable for grant of family pension as he was capable of earning his livelihood. The same was communicated to the petitioner vide letter dated February 21, 2022 by the Deputy Chief Accounts Officer.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that there is a significant time gap between the date on which the petitioner was examined by the CMO and the date on which the CMO opined that the petitioner was not eligible for grant of family pension.

Therefore, this Court directs the CMO of the Port Trust Authority to again examine the petitioner within 8 weeks from the date of this order and formulate an opinion as to his eligibility. The opinion of the CMO shall be communicated to the petitioner within 2 weeks of the date of examination of the petitioner.

With the directions aforesaid, **WPA 23127 of 2023** is disposed of.

Since no affidavits have been directed to be exchanged in the writ petition, the allegations contained therein are deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)