

11-07-2023
Item No.96
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.25396 of 2017
Shyamali Maity
-vs-
The State of West Bengal & Ors.

Mr. Surendra Kumar Shahrma ...for the petitioner

Mr. Shamim ul Bari
Mr. Vijay Agarwal ...for the State

The petitioner claims to be the unmarried daughter of the deceased employee. The father of the petitioner had died after retirement from the post of assistant teacher. The mother of the petitioner then started receiving the family pension. Thereafter, the mother died on February 24, 2013. The petitioner being the unmarried daughter claimed family pension thereafter.

The issue had fallen for consideration before the larger Bench of this court: “***Whether the benefit of family pension can be extended to unmarried/widowed daughter of an employee who superannuated or died prior to coming in force of the Death-cum-Retirement Benefit Scheme, 1981, which came into effect on and from 1st April 1981.***”

The larger Bench of this court by its judgement and order dated **June 20, 2023** passed in **MAT No.1518 of 2019** with **CAN No.2 of 2019** (Old CAN No.10437 of 2019) in the case of **State of West Bengal & Ors. v. Sabita Roy** had decided the issue allowing the family pension in favour of the unmarried daughter/widowed

daughter of a deceased employee as mentioned therein.

Mr Shamim ul Bari, learned advocate appearing for the respondents, submitted that no further challenge had been thrown to the said judgement and order dated June 20, 2023 passed by the larger Bench.

In view of the above, the **respondents no.4 and 5** shall take a decision on the issue raised by the petitioner in the instant writ petition as available in her **representation** dated May 2, 2013, **Annexure P4 at page 42** to the writ petition, in the light of the ratio decided by the larger Bench in the case of **Sabita Roy** (supra) positively within a period of four weeks from the date of communication of this order.

In the event the decision goes in favour of the petitioner, the respondents no.4 and 5 and/or any other relevant State authority shall give effect thereto in favour of the petitioner, positively within a period of two weeks from the date of communication of the decision.

On the above terms, this writ petition, **WPA No.25396 of 2017**, stands **disposed of**.

Certified photostat copy of this order, if applied for, be furnished expeditiously.

[Aniruddha Roy, J]

