

Sl.No. 13
27.02.2023
SB-II
AGM

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 31 of 2023

**Sushanta Mitra
-versus
The State of West Bengal & Ors.**

**Ms. Jagriti Mishra,
Mr. Debayan Goswami,
Mr. Subham Gupta,
Mr. Reshab Kumar,
Mr. Raj Kumar Mitra,
Ms. Ananya Bhattacharya.
...For the Petitioner.**

**Mr. Subir Kumar Saha,
Mr. Momenur Rahaman.
...For the State.**

The petitioner is the legal guardian of one Debapriti Bhowmick Gopal the mentally challenged son of Kamal Kumar Bhowmik, the deceased District Programme Officer, Dakshin Dinajpur. The said Debapriti has been held to be eligible for receiving family pension. The employee died in the year 2016. The mother of the disabled son pre-deceased his father.

The family pension file of the son cannot be processed for want of the Service Book records of the deceased employee.

The Directorate, Integrated Child Development Service (ICDS), West Bengal by a communication dated 12th May, 2022 intimated the Pr. Accountant General (A & E), West Bengal that the Service Book

of late Kamal Kumar Bhowmik cannot be traced out inspite of thorough search and its certified that the same cannot be submitted again in future. The Director of ICDS requested the Pr. Accountant General to take necessary action so that the son gets the family pension at the earliest.

Learned advocate representing the petitioner submits that after the aforesaid communication the file has not proceeded any further.

Learned advocate representing the respondent authorities admits that the son has been found to be eligible for family pension but the only difficulty is the non availability of the Service Book of the deceased employee.

From the communication of the Director of ICDS, it appears that the file of the employee may not be traceable in the near future. The same cannot be a reason for non-payment of the family pension in favour of the mentally disabled son of the deceased employee. The respondent authorities ought to take steps to reconstruct the Service Record of the deceased employee from the documents that are already available in the office of the respondent authorities.

The son not being mentally capable of handling his own affairs, he is being taken care of by the petitioner being his legal guardian.

The welfare of the son ought not to suffer on account of non release of the family pension in his favour.

The respondent authorities should keep the welfare of the mentally disabled person in mind and take immediate steps for reconstruction of the service records of the deceased employee.

The respondent nos. 2 and 3 are, accordingly, directed to take all necessary steps for reconstruction of the Service Book of the deceased employee and ensure that current family pension along with all arrears are released in favour of the son at the earliest but positively within a period of twelve weeks from the date of communication of this order.

It is made clear that the time mentioned herein above shall be strictly adhered to by the respondent authorities and the Service Book be reconstructed with top priority.

The writ petition stands disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)