

11.12.2023
Sl. No.39
akd

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

M. A. T. 5 of 2021
(CAN 1 of 2021)
(CAN 2 of 2021)

[The State of West Bengal & Ors. -Vs- Smt. Prabhati Roy & Ors.]

Mr. Momenur Rahaman
Mr. Kumar Shantanu
... .. for the appellant-State

Ms. Suman Sehanabis (Mondal)
... .. for the respondent no.1/
writ petitioner

1. Appellant-State of West Bengal has assailed the order dated 04.03.2020 passed by the learned Single Judge primarily on the premise even if the respondent no.1/writ petitioner is entitled to family pension as per G.O. No. 539-SE (P&B)/SL-SS-061 dated 01.11.2010 her entitlement could not have been from the date of death of her husband i.e. 15.06.1970.
2. Learned Advocate for the appellant-State refers to paragraph 4 of the said notification which states the financial benefit shall be extended to the widows of the deceased employee w.e.f. 15.06.1990 or from the date of application for pension whichever is later.
3. Learned Advocate for the respondent no.1/writ petitioner contends her client is a widow of the deceased employee who joined as a Head teacher of

Indreswar Primary School, Mathalhat, Dinhata, Cooch Behar on 01.08.1967 and died-in-harness on 15.06.1970. Hence, she is entitled to the benefit of family pension as per the notification dated 01.11.2010.

4. We have perused the order under appeal. By the order impugned the learned Single Judge directed the Principal Secretary, Primary Education Department, Government of West Bengal to consider the issue of grant of family pension to the respondent no.1/writ petitioner being the widow of the deceased employee. It was further directed in the event the respondent no.1/writ petitioner is entitled to family pension, the Principal Secretary shall compute the amount of family pension payable and take steps for disbursal of the same including arrears from 15.06.1970, that is, the date on which the employee expired.
5. Respondent no.1/writ petitioner being the widow of the deceased employee has founded her claim on the notification bearing No. 539-SE (P&B)/SL-SS-061 dated 01.11.2010. Paragraph 4 of the said notification restricts the financial benefit given to the widow of a deceased employee with effect from 15.06.1990 or from the date of application for pension, whichever is later.
6. In such view of the matter, the direction of the learned Single Judge that the family pension if

awarded to the respondent no.1/writ petitioner must be computed along with arrears from the date of death of her husband i.e. 15.06.1970 is not in consonance with the aforesaid notification.

7. Accordingly, we modify the impugned order and direct in the event the respondent no.1/writ petitioner is entitled to family pension, the Principal Secretary shall compute the amount of pension payable to her including arrears in terms of paragraph 4 of the said notification. It is further directed a reasoned decision with regard to entitlement of family pension shall be taken by the Principal Secretary concerned within four weeks from the date of communication of the order. If the respondent no.1/writ petitioner is entitled to family pension, the Principal Secretary shall compute the family pension including arrears in terms of paragraph 4 of the said notification and the same shall be paid to the respondent no.1/writ petitioner within eight weeks of the decision to award pension. Respondent no.1/writ petitioner shall also be entitled to interest @ 9% p.a. on the arrears from the date of accrual as per paragraph 4 of the notification till actual payment.
8. Other portions of the impugned order shall remain unaltered.
9. With the aforesaid modification, the appeal is disposed of.

10. In view of disposal of the appeal, the connected applications being CAN 1 of 2021 and CAN 2 of 2021 are also disposed.

11. There shall be however, no order as to costs.

12. Let photostat certified copy of the order, if applied for, be given to the parties on usual undertaking.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)