

WPA 2095 of 2022

**Kamala Chatterjee
Vs.
State of West Bengal & Ors.**

**Mr. Syed Shamsul Arefin,
Ms. Nadira Abedin.
... for the petitioner**

**Mr. Bhaskar Prasad Vaisya,
Mr. Sagnik Chatterjee.
... for the State**

1. The writ petitioner is the widow of the erstwhile Group-D employee of the school namely Damanchak High School, who died in harness.
2. The writ petitioner being widow of that erstwhile employee of this school (now deceased) claims herself to be entitled to receive monthly family pension after death of her husband i.e., with effect from November 9, 1998.
3. Since allegedly, the respondent authorities have not disbursed the same in her favour, the present writ petition has been filed by the said widow.
4. Mr. Arefin, learned counsel is appearing for the writ petitioner. He submits that pursuant to ROPA Rule 1990 since the husband of the writ petitioner opted for revised scale of pay, he was not further required to submit any option to convert his provident fund account from contributory to the other.

5. As such, as per Mr. Arefin, the writ petitioner would be entitled to the family pension after death of her husband.
6. Mr. Arefin, is candid enough to submit that before such family pension shall be sanctioned in favour of the present writ petitioner, she has to return the part of contribution of the employer, already granted in favour of her deceased husband earlier.
7. Mr. Arefin, learned counsel has further relied on an order passed by the Director Pension Provident Fund and Group Insurance, Government of West Bengal dated August 19, 2021. The reason for relying on this order of the Director is its applicability, in-toto, in case of the present writ petitioner.
8. It is submitted that pursuant to this Court's directions in the writ petition being W.P. No. 614 (W) of 2016 (Putul Mondal vs. State of West Bengal & Ors.), the Director had considered a similar case and has held as regards the applicability of family pension to the widow of an erstwhile employee (now deceased).
9. Mr. Arefin, learned counsel seeks that an order may be passed in this writ petition considering the above facts and circumstances.
10. Mr. Bhaskar Prasad Vaisya, learned counsel assisted by Mr. Sagnik Chatterjee, are representing for the State.
11. Objection has been raised regarding applicability of family pension to the writ petitioner on the

ground that the husband of the writ petitioner has not exercised any option to convert contributory provident fund as was applicable to him to General Provident Fund.

12. On perusal of the order dated August 19, 2021, of the Director Pension Provident Fund and Group Insurance, Government of West Bengal, it is revealed that the said authority has dealt with exhaustively with the points raised in objection in this case, on behalf of the State respondent.

13. It is found by the authority that the family pension would be applicable even in such a case as pursuant to the direction of the Court after exercising option under ROPA Rule 1990, further exercise an option for conversion of provident fund would be redundant.

14. The Director has also found in the said order that petitioner's case would be maintainable and entertainable even after expiry of the three months stipulated period, in view of the fact that the said time limit would only be applicable in case of an employee and not to the legal heir of a deceased employee.

15. I concur with the submissions made by Mr. Arefin that the order dated August 19, 2021, as mentioned above passed by the Director, would be squarely applicable in case of the present writ petitioner also.

16. The case of the writ petitioner should be governed by the same and considered in the light of the same.

17. With the observation as above, this writ petition is being disposed of by directing the respondent no. 1 to consider writ petitioner's representation dated January 28, 2022 in the light of the observations as above, including the findings and decision made by dint of the order dated August 19, 2021, as mentioned above.
18. In doing so, the concerned respondent shall allow opportunity of hearing to the writ petitioner and any other interested and relevant persons as it may think fit and proper. It shall also consider documents, if necessary, as produced by the writ petitioner or otherwise.
19. The respondent no. 1 shall conclude hearing of this matter within a period of three weeks from the date of service of copy of this order. In the event, it finds that the writ petitioner is eligible for family pension, shall immediately direct for the pension to be started in her favour.
20. In that event, the arrear with effect from the date of death of her husband shall be paid to her within a period of four weeks from the date of decision of the respondent no. 1.
21. The respondent no. 1 shall be at liberty to consider and direct the writ petitioner accordingly, for refund of employers' contribution, as was disbursed to the deceased husband of the writ petitioner.
22. The writ petition being WPA 2095 of 2022 is disposed of.

23. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rai Chattopadhyay, J.)