

10.04.2024.
Court No. 13
Item No. 196
ap

W.P.A. No. 6406 of 2024
Rajyashri Mal
Versus
The State of West Bengal & Ors.

Mrs. Sabita Khutia (Bhunya).

...For the petitioner.

Mr. Bhaskar Prasad Vaisya,
Mr. Nilay Baran Mandal.

...For the State.

1. Affidavit-of-service filed in Court today be taken on record.
2. The petitioner claims pension on account of the death of her late husband, who was an Assistant Teacher at Dakshin Jalalsi Primary School, Howrah. Her husband died-in-harness on 25.12.1996.
3. The petitioner is, therefore, covered under the decisions of the Special Bench of this Court in the case of District Inspector of Schools (S.E.), Kolkata –Vs- Abhijit Baidya reported in 2013 SCC OnLine Cal 13189 and Md. Abdul Ghani – Vs. – The State of West Bengal & Ors being APOT 104 of 2006.
4. Several decisions of the Division Bench of this Court have held that in the event no option was exercised by the teacher concerned, the wife can exercise such option.
5. The instructions of the District Inspector of Schools (PE), Howrah indicates that the deceased teacher might have exercised option from CPF to GPF in terms of the Government Order dated 13th June, 2014. However, the same is not clear to him.

6. Be that as it may, the petitioner shall be entitled to exercise option (if not already exercised by her husband) in the peculiar facts and circumstances of the case and upon requirement of any refund to be made, she may do so with interest and additional interest (if not deposited) as may be indicated by the District Inspector of Schools (PE), Howrah within a period of one month from date.

7. Upon the petitioner's making the refund, she shall be entitled to arrears of pension on account of her husband service from the date of his superannuation till the date of refund without any interest. After the date of refund, the petitioner shall be entitled to issuance of Pension Payment Order and Pension.

8. Let arrears of pension on account of the petitioner's husband's service be paid to the petitioner within a period of two months of issuance of PPO. In default the same shall carry interest @ 8% per annum.

9. Instructions of the District Inspector of Schools (PE), Howrah dated 13th March, 2024 filed in Court today be taken on record. The observations contained therein denying pension to the petitioner are rejected.

10. With the aforesaid directions, the instant writ petition shall stand disposed of.

11. There will be no order as to costs.

12. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)