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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 6992 of 2024

Smt. Krishna Thandar

Vs.

Union of India & Ors.

Mr. Biswaranjan Bhakat,
Mr. Satyaranjan Kundu,
Mr. Subrata Mukherjee
... for the petitioner

Mr. Souvik Nandy
...for the respondent nos. 1 to 3

Mr. Pinaki Bhattacharyya,
Ms. Mitu Biswas
...for the State

1. The petitioner is a widow daughter of a freedom fighter, who was getting freedom fighters' pension under the Swatantrata Sainik Samman Pension Scheme.

2. After the demise of her parents, the petitioner applied for pension under the said Scheme in the capacity of a widowed daughter of her father, a freedom fighter. However, by an order dated May 18, 2022, annexed at page 35 of the writ petition, the same was refused citing Clause 3 (the eligibility clause) of the said scheme.

3. The contention of the respondents is that under the Scheme, unmarried daughters are entitled to

get the benefit of the said scheme but not widowed daughters. It is further contended that the rights to get the benefit of a Scheme are governed by the provisions of the Scheme and is not an independent right.

4. However, in the present case, the question is not whether the petitioner is claiming a right independent of the Scheme, but as to the correct interpretation of the expression “unmarried daughter”, which is there in the Scheme itself.

5. I do not find any reasonable line of distinction between an unmarried daughter and a widowed daughter since the matrimonial status of both are same.

6. The position might have been otherwise if the expression “spinster daughter” was used instead of “unmarried daughter” in the said scheme.

7. The authorities having not done so, it is evident that the widowed daughter, who stands on similar footing as an unmarried daughter, is also entitled to the benefit of the Scheme. However, there may be a doubt as to whether the petitioner, in the capacity of a widow, is getting any alimony or maintenance from the estate of her deceased husband. It is for the authorities to ascertain such aspect of the matter upon giving an opportunity of representation/hearing to the petitioner.

8. However, the impugned rejection merely by citing the eligibility clause without going into the above components of the issue is not justified in law.

9. Accordingly, W.P.A. No. 6992 of 2024 is disposed of by setting aside the impugned rejection dated May 18, 2022 of the petitioner's claim for freedom fighters' pension as the widowed daughter of her father.

10. The respondent no. 3 shall now consider the claim of the petitioner afresh in accordance with law, upon ascertaining as to whether the petitioner is still a dependent as a widowed daughter of her deceased father, having no other income from any other source, from the estate of her deceased husband or otherwise.

11. However, for the purpose of such ascertainment, the petitioner shall be construed on the same footing as an unmarried daughter under the Scheme.

12. Such exercise, it is expected, shall be concluded within six weeks from date and the outcome thereof would be intimated to the petitioner immediately thereafter.

13. In the event the respondent no. 3 is of the opinion that the petitioner is entitled to the benefit of such Scheme, the disbursal shall be commenced

in favour of the petitioner under the Scheme at the earliest thereafter.

14. However, if it is held otherwise upon ascertainment as indicated above, it will be open to the petitioner to challenge the said decision before the appropriate forum in a properly constituted proceeding.

15. There will be no order as to costs.

16. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)