

06.08.2024
Ct. No. 14
Sl. No.30
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 13085 of 2024

**Jharna Bhattacharya
-versus-
The State of West Bengal & Ors.**

Ms. Sabita Khutia (Bhunya)
Mr. Krishna Pada Santra
... For the petitioner.
Mr. Rudranil De
Mr. Priyabrata Dey
... For the State.

Affidavit of service filed in Court today be retained with the record.

The petitioner is the widow of a deceased primary school teacher who died in harness. She is being paid pension on and from the date of refund of the employer's share of contribution in terms of the direction passed by the Hon'ble Division Bench on 9th December, 2015 in MAT 1598 of 2015 with CAN 10440 of 2015 with CAN 10441 of 2015 (The State of West Bengal & Ors. Vs. Smt. Jharna Bhattachary & Ors.).

The petitioner submits that in terms of the judgment passed by the Hon'ble Larger Bench on 30th September, 2019 in G.A. No.464 of 2018, APOT No.104 of 2006, APO 121 of 2007, G.A. No. 627 of 2006, W.P.

No.1528 of 2002 in the matter of ***Md. Abdul Ghani vs. State of West Bengal & Ors.*** the petitioner would be entitled to receive the amount on and from the date of death of the employee and not from the date of refund of the employer's share of contribution.

This issue in question as to whether the benefit is to be extended on and from the date of refund of the employer's share of contribution or from the date of retirement of the employee has been considered by this Court in several matters and the consistent view of the Court is that the benefit ought to be granted on and from the next date of retirement of the employee.

In the instant case the employee died in harness on 15th October, 2005 after rendering 30 years 9 months and 27 days of qualifying service. Had the employee been alive till his superannuation, then the benefit would have been allowed on and from the next date of his retirement. As the employee died prior to superannuation as such the benefit is liable to be extended on and from the next date of his death.

In view of the above, the District Inspector of Schools (Primary Education), Paschim Medinipur is directed to re-calculate the terminal dues of the deceased teacher on and from the next date of his death and ensure that payment is made to the widow positively within a period of twelve weeks from the date of communication of this order.

In line with the decision passed by a Co-ordinate Bench of this Court on 15th April, 2024 in a batch of writ petitions first of which is WPA 2889 of 2024 (Swapam Kumar Chakraborty -Vs- The State of West Bengal & Ors), the aforesaid amount shall be paid to the petitioner along with interest at the rate of 8% per annum for the period from 1st November, 2019 till the date of actual payment.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)