

26.06.2024.
Court No.13
Item No. 32
pk

W.P.A. No. 13664 of 2024

**Parul Rani Maity @ Parul Bala Maity @ Parul Maiti
Versus
The State of West Bengal & Ors.**

Mrs. Sabita Khutia (Bhunya)
...For the petitioner.

Mr. Pinaki Dhole,
Ms. Ananya Neogi
... For the State.

1. The writ petitioner challenges the order passed by the D.I. of Schools (PE), Paschim Medinipur dated 4th June, 2018 rejecting the request for family pension. The petitioner's husband died in harness on 5th October, 1989.
2. The petitioner received gratuity and provident fund on account of her husband's service in 1992.
3. She filed WP No. 24716 (W) of 2017 challenging inaction of the respondents in considering her prayer for the pension upon offering to refund the State's contribution to CPF on account of her husband's service. The said writ petition was disposed of directing the D. I. of Schools (PE), Paschim Medinipur to consider and dispose of the writ petition.
4. The impugned order dated 4th June, 2018 was passed rejecting the petitioner's request for conversion of her husband's service from CPF to GPF or entitlement to pension. The concerned D.I. of Schools (PE) has held that the Notification of the State dated

13th June, 2014 for switch over from CPF to GPF was only for employees and not their widows.

5. This Court in the case of **State of West Bengal Vs. Shefali Jana and others** being FMA 620 of 2018 dated 24th August, 2023 has held that even widows of the deceased employees under the State can apply for conversion from CPF to GPF and applied the decision of the **D. I. of Schools (SE), Kolkata Vs. Abhijit Baidya** reported in 2013 (3) CHN (Cal) 711. The said decision has attained finality. The said Shefali Jana (supra) decision was rendered in an appeal against an order dated 16.03.2017 passed by a Single Bench of this Court in WP 9534 (W) of 2015. The petitioner's right to seek conversion from CPF to GPF on account of her husband's service with the State was upheld and allowed.

6. Learned counsel for the State has objected to the claim of the petitioner on the ground of delay and laches. He has argued that there was inordinate delay and silence on the part of the writ petitioner since her husband's death. The petitioner had received the PF amount and gratuity in 1992 and no claim for conversion from CPF to GPF should now be entertained.

7. This Court notes that the impugned order rejecting the petitioner's claim was passed not on the ground of delay but also on the entitlement of the writ petitioner herself to seek conversion from CPF to GPF

of her husband's service. The delay in filing the writ petition is only from the year 2018 i.e. six years from the impugned order.

8. It is now well settled that delay cannot defeat a right to pension. Pension is not a bounty or a gift by the State. It is a lawful entitlement of the widow to benefit and sustain herself from the service of her husband. It is assumed that the petitioner has supported her husband during his lifetime. As a consequence whereof, he was able to render service in the State smoothly. The petitioner definitely had a role to play in the husband's discharge of service. While a claim for interest on arrears of pension should be denied to the petitioner on the ground of delay, the basic entitlement of the pension cannot be negated or denied.

9. In that view of the matter, the impugned order dated 4th June, 2018 stands set aside. The writ petitioner shall be entitled to pension upon refund of the employer's share towards PF together with interest and further interest.

10. The D. I. of Schools (PE), Paschim Medinipur shall calculate the quantum of refund together with interest and further interest that the petitioner would be required to make to the State within a period of eight weeks from receipt of a copy of this order.

11. Upon presentation of evidence of such refund within ten days from the date of communication, the

DPPG, West Bengal shall issue PPO to the petitioner and pay arrears to her from the very next day of the date of death of the petitioner's husband.

12. In the facts and circumstances of the case, however, the petitioner shall not be entitled to any interest on arrears of pension.

13. Let a copy of this order along with the copy of the writ petition be served on the D. I. of Schools (PE) and the DPPG, West Bengal for necessary compliance.

14. The writ petition is disposed of.

15. There will be no order as to costs.

16. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)