

Sl. No.01
19.09.2024
Suman
Ct. 15

WPA 17843 of 2022

Tapas Jana
Vs.
The State of West Bengal and Ors.

Mr. Subhrangsu Panda
Ms. I. Bhattacharyya
Ms. Mithu Singha Mahapatra
..for the petitioner

Mr. Avishek Prasad
..for the State

The petitioner submits that he is a physically challenged son of late Rakhal Chandra Jana, who was employed as a “PANCHAYAT KARMI” under Block Development Officer, Naivhanpur-II Gram Panchayat, Purba Medinipur. He prayed for a family pension, which was rejected by the Director of Pension and Provident Fund and Group Insurance, Finance Department, Government of West Bengal by a Memo dated March 21, 2022, on the ground that there is no provision for family pension for physically challenged sons in the Death-Cum-Retirement Benefit Scheme, 1985, applicable to the Panchayat and Rural Development Department.

Learned advocate appearing for the State submits that in absence of any provision for family pension for physically challenged sons, no relief can be given to the petitioner.

Learned advocate appearing for the petitioner, however, submits that Death-Cum-Retirement Benefit Scheme, 1981, of the School Education Department as well as the West Bengal Services (Death-Cum-Retirement Benefit) Rules, 1971, provides for family pension for physically handicapped sons by adopting Finance Memo no.200-7(Pen.) dated February 26, 2007.

He submits that the Panchayat Department should similarly extend family pension benefit to physically handicapped sons in terms of the aforesaid Memo dated February 26, 2007.

I am of the view that by issuance of a mandamus no such direction can be passed since it is a policy decision involving the State exchequer. It should be left to the discretion of the State to decide whether such benefit should be accorded to the employees of the Panchayat Department.

In view of the aforesaid, this writ petition is disposed of with a direction upon the Secretary, Panchayat and Rural Development, Government of West Bengal to consider the possibility of extending the provision for family pension for the physically handicapped son of a deceased employee of the department subject to approval of the Finance Department.

Let such exercise be carried out within a period of four months from the date of communication of this order.

Needless to mention that if the Government decides to extend the benefit of family pension to physically handicapped sons, the case of the petitioner should be decided in the light of the aforesaid government order.

Accordingly, **WPA 17843 of 2022** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)