

05.08.2024
Ct. No.14
Sl. No.20
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 20700 of 2023

**Toslina Khatun
-versus-
The State of West Bengal & Ors.**

**Syed Mansur Ali
...For the Petitioner.**

**Mr. Malay Krishna De.
... for the State.**

**Mr. B.P. Vaisya.
Mr. Pinaki Bhattacharya.
... For the DPSC North 24 Parganas.**

The petitioner claims to be an unmarried daughter of a deceased primary school teacher. She prays for family pension.

The District Inspector of Schools (Primary Education), North 24 Parganas by a reasoned order dated 11th August, 2023 rejected the prayer of the petitioner on the ground that according to the Government Order No. 539-SE (P&B) dated 1st November, 2010, the benefit of family pension can be extended only to the living employees or their widows. The same cannot be extended to unmarried daughter.

The petitioner submits that her case is covered by the Larger Bench judgment passed by this Court on 20th June, 2023 in the matter of State of West Bengal & Ors. -Vs- Sabita Roy (MAT 1518 of 2019 IA No: CAN 2 of 2019 (Old CAN No. 10437 of 2019) wherein the Court unequivocally held that the benefit of family pension can be extended to unmarried daughter of an employee who superannuated or died prior to coming in force of the death cum retirement benefit Scheme 1981.

Learned advocate representing the State respondents submits that an appeal has been preferred from the order passed by the Larger Bench and the same is pending consideration before the Hon'ble Supreme Court.

This Court is of the opinion that as on date, there is no order staying/modifying/varying or setting aside the judgment passed by the Larger Bench in the matter of Sabita Roy (supra). Till the same is done, the order passed by the Larger Bench will be binding upon this Bench.

In view of the above, the instant writ petition is disposed of by setting aside the order of rejection passed by the District Inspector of Schools, Primary Education, North 24 Parganas. Consequently, the District Inspector of Schools is directed to process the family pension case of the petitioner and take steps to

ensure that the payment is disbursed in favour of the petitioner at the earliest but positively within a period of sixteen weeks from the date of communication of this order.

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.)