

25      **08.07.  
2024**

Ct. No. 08

ab

**FMA 1330 of 2022  
IA No. CAN 1 of 2023**

**Basanti Ghosh  
Vs.  
State of West Bengal and others.**

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**Mr. Kamalesh Bhattacharjee,  
Mr. Yousuf Ali.**

**... for the appellant.**

**Mr. Biswabrata Basu Mallick, Ld. AGP.**

**... for the State.**

**Mr. Md. Sarwar Jahan,  
Mr. Sk. Nayeemul Haque.**

**... for the respondent no. 6.**

The deadwood is sought to be resurrected by approaching the Court at a belated stage on the ground of sympathy, sentiment and empathy to be shown by the Court in relation to an entitlement to family pension.

The appellant claimed that her husband worked as Assistant Teacher between 1964 to 1968 and unfortunately died on 9<sup>th</sup> May 1969. There was a complete silence for several decades after the death of the said teacher. It is only in the year 2015, the process was activated for family pension.

The claim was founded upon a letter issued by the Headmaster of the school to the effect that the said teacher worked during such period, which, according to the appellant, is a conclusive evidence of proving the fact that her husband, in fact, discharged duties as teacher in the said school. Obviously, the moment the competent authority issued a letter, a direction was passed upon the District Inspector of Schools to take stock of the things and even a writ petition filed earlier was disposed of directing the said District Inspector of Schools to give personal opportunity of hearing to the appellant and also

liberty was granted to submit all the documents, which can throw light on such assertion.

Our attention is drawn to the decision of the District Inspector of Schools taken after giving an opportunity of hearing to the appellant and the Headmaster. A specific query was raised to the Headmaster whether the declaration of the husband being the teacher between the aforesaid periods is supported by any document maintained by the school; the answer was negative. No document was produced either from the appellant or from the school authority in support of the said claim. Even the District Inspector of Schools has issued a letter of caution to the Headmaster not to indulge himself in issuing such letter in reckless manner nor should write something unsupported by valid document.

The husband died in the year 1969 and thereafter nothing appears to have been done at the behest of the appellant until a decade before when suddenly the appellant woke up from slumber and asserted the right based upon the letter issued by the Headmaster out of sheer sympathy.

Though it is sought to be contended by Mr. Kamallesh Bhattacharjee, learned Advocate for the appellant, that all the documents were destroyed in the flood of 1978, but we do not find any reminiscence in the pleading filed before the Trial Court nor before us in this regard.

Since the appellant has miserably failed to produce any document in support of her claim that her husband was working as a teacher between 1964 to 1969, we do not find any infirmity and/or illegality of the decision of the Trial Court.

The appeal sans merit and the same is hereby dismissed.

Consequently, the connected application being CAN 1 of 2023 is also dismissed.

There shall, however, be no order as to costs.

**(Harish Tandon, J.)**

**(Prasenjit Biswas, J.)**