

27.06.2024.
Court No.13
Item No.20
ap

W.P.A. No. 24166 of 2018

**Smt. Renubala Jana
Versus
The State of West Bengal & Ors.**

Mr. Tarun Kumar Das,
Mr. Dilip Kumar Shyamal.

...For the petitioner.

Mr. Bhaskar Prasad Vaisya,
Mr. Ranjan Saha.

...For the DPSC, South 24 Parganas.

1. The writ petitioner is the wife of one Bimal Kumar Jana, an Ex-Assistant Teacher, who worked under the District Primary School Council, South 24 Parganas from 1st April, 1974 till 18th March, 1977.
2. The petitioner's husband never thereafter showed up for performing his duty in the School. The length of service of the petitioner's husband therefore comes to three years one month and eighteen days.
3. Learned Counsel for the petitioner would rely upon Death-cum-Retirement Benefit Scheme of 1981 particularly paragraph 23 thereof to argue that one year service was enough for the purpose of family pension under the said Scheme.
4. It further appears from the orders passed by a Co-ordinate Bench of this Court dated 21st November, 2017 in W.P. No. 26565 (W) of 2017 that the District Inspector of Schools (PE), South 24 Parganas was directed to prepare pension papers and calculation of

the petitioner and take steps for sanctioning family pension and Death-cum-Retirement Benefits in favour of the petitioner.

5. It is submitted by the Counsel for the petitioner that the District Inspector of Schools (PE), South 24 Parganas in terms of this Court's order dated 21st November, 2017 (supra) has calculated the quantum pension payable to the petitioner and has forwarded the same to the Director of Pension, Provident Fund and Group Insurance, West Bengal.

6. The Audit Division of Director of Pension, Provident Fund and Group Insurance, West Bengal has, however, raised an objection. It was indicated that the writ petitioner's husband had not died-in-harness or retired prior to 1st April, 1981 in terms of the Death-cum-Retirement Benefits Scheme of 1981.

7. Reference is also made to G.O. No. 1493-Edn(P) dated 25th July, 1940 (the year is most likely a typographical error) that the teacher, remaining absent continuously for more than twelve months, shall no longer be deemed to be in service.

8. It appears to this Court that the writ petitioner's husband must be deemed to have abandoned service akin to resignation and the period of his service must be deemed to have been forfeited.

9. Reliance is also placed on paragraph 23 of the Death-cum-Retirement Benefit Scheme, 1981 by the learned Counsel for the petitioner. This may not be

useful since the same refers to the case of a person being prevented from attending duties under duress and/or coercion. There is no pleading in the writ petition or communication by the writ petitioner that her husband was prevented from discharging duties by coercion or duress.

10. In those circumstances, this Court is of the view that the objection raised by the Audit Division of the Office of the Director of Pension, Provident Fund and Group Insurance, West Bengal dated 25th September, 2018 is valid and sustainable in law. Hence, no relief can be granted to the writ petitioner in this writ petition.

11. The instant writ petition must fail and is hereby dismissed.

12. There will be no order as to costs.

13. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)