

28.02.2024
Court No.13
Item No.80
pk

WPA 24893 of 2023

**Arpita Mahata
Vs.
The State of West Bengal and Ors.**

Mr. Prasanta Behari Mahata
Mr. Lalratan Mondal
Mr. Dilip Kumar Sadhu

... For the Petitioner.

Mr. Bhaskar Prasad Vaisay,
Mr. Niloy Baran Mondal

... For the DPSC, Purulia.

Ms. Kakali Samajpaty,
Ms. Kakali Naskar

... For the State.

Affidavit of service filed in Court today is taken on record.

The petitioner's husband was an Assistant Teacher of Jallang Primary School. He died in harness on 21st May 2022 at the age of 45. The deceased had completed about 16 years of service and was entitled to pension.

At the time of processing the pension papers the District Inspector of Schools, Purulia returned back the file of the petitioner's husband.

It appears from the records annexed to the writ petition that the writ petitioner's late husband, was permitted by the School and the District Inspector of Schools to enjoy 'A' category pay scale right from the inception of his service. Such 'A' category scale of pay

to the petitioner's late husband was also recorded in the office of the District Inspector of Schools. The fixation of the petitioner's wife pay scale was done under the 'A' category pay scale under ROPA 2009 and ROPA 2019 successively.

It is clear and evident from the above that the deceased had absolutely no role to play in the fixation of her pay scale. The question of any fraud or misrepresentation on her part does not and cannot arise.

Applying the principles in the case of **State of Punjab and Ors. Vs. Rafiq Masih (White Washer) & Ors.** reported in **(2015) 4 SCC 334** as reiterated by the Hon'ble Supreme Court in the case of **Thomas Daniel Vs. State of Kerala and Ors.** reported in **AIR 2022 SC 2153** the impugned action of the District Inspector of Schools, Purulia shall stand quashed and set aside.

Family pension papers on account of the late husband of the petitioner's service i.e. Anyatama Mahato shall be processed by the Sub-Inspector of Schools, Jhalda – 1 Circle and the District Inspector of Schools (P.E.), Purulia with due concurrence and participation of the school in question i.e. Jallang Primary School, mandatorily and positively within a period of one month from the date of receipt of a copy of this order.

With the aforesaid directions, the writ petition is disposed of.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)