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15.05.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 26034 of 2023

Debasis Pahari & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Soumen Kumar Dutta,
Mr. Subham Dutta,
Mr. Sayan Uddin
...for the petitioners

Mr. Avishek Prasad,
Mr. Saikat Sen
...for the State

1. Affidavit of service filed in court today be kept on record.
2. The petitioners claim to be heirs of a freedom fighter, who met his demise in the year 2013. During his lifetime, the petitioner's father/predecessor-in-interest was enjoying freedom fighter's pension. It is submitted by learned counsel for the petitioners that under the extant circulars, a freedom fighter is also entitled to claim pension from the State Government.
3. Upon demise of the petitioners' father, the petitioners' mother, as the widow of the freedom fighter, stepped into his shoes and continued to get the freedom fighter's pension from the Central

Government. However, the State Government did not pay her the pension which she was entitled to from the State, during her lifetime.

4. The mother of the petitioners also died in the year 2018. The petitioners now claim pension from the State-Authorities which accrued to their mother during her lifetime.
5. On a bare perusal of the writ petition and hearing learned counsel for the petitioners, it is evident that in view of the mother having not claimed her entitlement during her lifetime from the year 2013 (when she started getting it) to 2018, the said claim became time-barred even during the lifetime of the mother.
6. In any event, the present claim by the writ petitioners is not maintainable, since the freedom fighter's pension is by way of subsistence provided to freedom fighters and their dependents after their lifetime. Since the mother of the petitioners, who was the last entitled dependent of the freedom fighter, did not claim her share from the State Government during her lifetime, the petitioners do not have any *locus standi* to claim the share of their mother much after her demise.
7. The writ court is also a court of equity and it has to be seen whether the claim is maintainable in not only law but also in equity. The petitioners having

not met such criterion, W.P.A. No. 26034 of 2023 is dismissed without any order as to costs.

8. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)