

03.04.2024.
Court No. 13
Item No. 147
ap

W.P.A. No. 28861 of 2023

**Smt. Durgabala Mandal
Versus
The State of West Bengal & Ors.**

Mr. Saibal Acharyya,
Mr. Aninda Bhattacharya.

...For the petitioner.

Mr. Arindam Chattopadhyay,
Mrs. Lipika Chatterjee.

...For the State.

Mr. Ranjan Saha.

...For the DPSC, Paschim Medinipur.

1. Despite service of notice, the private respondent, daughter-in-law, namely, Smt. Krishna Patra (Mandal) is not represented. Affidavit-of-service filed in Court today be taken on record.

2. The facts of the case are admitted.

3. The petitioner is the widowed mother of one Brajadulal Mandal, an Assistant Teacher under the District Primary School Council, Paschim Medinipur. Upon the death of the employee, the pension on account of his service was paid in equal share i.e. 50% each to the wife of the deceased and his mother, the writ petitioner herein.

4. The widow of the deceased was, however, also appointed as a Group-C staff on compassionate grounds by the District Primary School Council, Paschim Medinipur. She got married again.

5. This Court is of the clear and unequivocal view that the private respondent, daughter-in-law cannot get a double benefit of both compassionate employment with full salary and emoluments along with a share of the family pension, on account of the deceased husband's service. That would amount to illegal and unjust enrichment.

6. Law, propriety and equity mandate that the daughter-in-law should not get any family pension at all. It is only the widow mother of the deceased employee that should get the entire family pension.

7. In those circumstances, this Court directs the Director of Pension, Provident Fund and Group Insurance, West Bengal to modify the pension payment order dated 22nd September, 2015 and make the same payable exclusively to the writ petitioner, namely, Smt. Durgabala Mandal with immediate effect.

8. It is expected that a fresh Pension Payment Order and payment of pension to the writ petitioner shall be issued and commenced within a period of six weeks from date.

9. With the aforesaid directions, the instant writ petition shall stand disposed of.

10. There will be no order as to costs.

11. 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.)