

13.06.2024
Sl. No.22(DL)
GB

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

W.P.A. No. 1093 of 2024

Mina Baidya Roy

Versus

The State of West Bengal & Ors.

Mr. Debjit Kundu

...for the Petitioner.

Ms. Bedashruti Bose,
Mr. Kumar Shantanu

...for the State-respondents.

1. Affidavit-of-service is taken on record.
2. The petitioner is the widow of an Assistant Teacher. The husband died-in-harness on August 4, 2004. After the death of her husband the Pension Payment Order was issued in favour of the petitioner and only the gratuity was sanctioned. Husband of the petitioner had opted to come under the CPF-cum-gratuity scheme. Subsequent to the death of her husband, the petitioner approached the authority for being allowed family pension as per DCRB Scheme, 1981. The petitioner's prayer was not allowed.
3. The petitioner claims that in terms of the decision of the Special Bench of this Court in the matter of District

Inspector of Schools (SE), Kolkata vs. Abhijit Baidya reported in (2013) 3 CHN 711, the benefit of family pension should be allowed to the petitioner on account of the service rendered by her husband.

4. The switching over from the CPF to the Pension-cum-Gratuity scheme could not be done by the petitioner's husband and fresh option was not exercised by him. However, as has been decided in FMA 620 of 2018 by the Hon'ble Division Bench of this Court, widows would be entitled to family pension after the death of the deceased employees upon refunding the entire CPF amount received by the husbands together with interest. Upon refund of the entire amount, the District Inspector of Schools, Howrah, was directed to forward the recommendation to the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal for issuance of Pension Payment Order.
5. Under such circumstances, this writ petition is disposed of granting liberty to the petitioner to refund the amount received by her on account of Contributory Provident Fund along with the interest to be computed by the District Inspector of Schools (Primary Education), Cooch Behar. Such computation shall be made within two

months from date and the demand shall be raised upon the petitioner. The petitioner shall comply with such demand notice and pay the amount. Thereafter, the District Inspector of Schools (Primary Education), Cooch Behar, shall recommend the case of the petitioner to the concerned authority for disbursement of the family pension, in accordance with law.

6. The entire exercise shall be completed within a period of three months from the petitioner depositing the amount, as may be calculated by the District Inspector of Schools (Primary Education), Cooch Behar.
7. There shall be no order as to costs.
8. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)