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W.P.No.3303 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

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THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.3303 of 2022
and W.M.P.No.3441 of 2022

R.Kala

... Petitioner

Vs.

1.The Assistant General Manager
Local Head Office
State Bank of India
Tamilnadu Region
College Road, Nungambakkam
Chennai – 600 007.

2.The Chief Manager SBI
Coimbatore Main Branch
State Bank Road
Coimbatore – 641 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in respect of impugned order No.MISC/PEN/2 dated 15.09.2021 issued by the 2nd respondent to quash the same and to direct the respondents to issue order for grant of family pension.



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For the petitioner : Mr.J.Ramesh
for Mr.N.Sundarrajan
For the respondents : Mr.S.Sethuraman
for RR1 & 2

ORDER

This Writ Petition has been filed challenging the order passed by the 2nd respondent dated 15.09.2021, whereby the 2nd respondent rejected the request made by the petitioner to grant family pension to the disabled unmarried daughter – Petitioner.

2. It is the case of the petitioner that her mother was retired as Senior Record Keeper in the 2nd respondent – Bank. After the retirement of the petitioner's mother, she received her pension and thereafter she died on 31.10.2019. The petitioner being the eldest unmarried daughter of the deceased employee, who is suffering with diffuse cerebellar trophy and smaller caliber of spinal cord had applied for family pension vide her Advocate's legal notice dated 16.06.2021. However, the respondents – Bank rejected the claim on the ground that only for those who have diagnosed with disabilities which manifests itself in the child before retirement or death of the employee while in service whichever is less. Even thereafter, the petitioner had received the



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impugned order dated 15.09.2021 and hence the present Writ Petition.

3. The learned counsel for the petitioner would submit that the petitioner was duly assessed by a Doctor, who gave a certificated dated 16.01.2015 as the petitioner was suffering with diffuse cerebellar trophy and smaller caliber of spinal cord. Since because of the above disease, the petitioner could not walk and speak. For her day to-day routine she is depending on others. Therefore, he prays that the family pension has to be granted to the petitioner with immediate effect.

4. The learned counsel appearing on behalf of the respondents by filing a counter affidavit would submit that the petitioner's mother while applying for pension, she submitted a form for declaring her family members. From that it is clear that the petitioner was aged about 32 years and she was a teacher by profession and under the column 'Disability manifested since', the petitioner's mother did not fill up anything. Further, if the petitioner had any disability, the petitioner's mother could have submitted the same in her declaration and necessary medical certificates should have been produced,



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while the petitioner's mother applied for pension.

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5. Heard the learned counsel on either side and perused the material records of the case.

6. Admittedly, the deceased mother of the petitioner submitted documents for pension, along with a declaration to declare that the petitioner's occupation as teacher and failed to fill up the details of disabled child, if any column with the nature of disability and also relevant date. Though the deceased employee stated that the status of the petitioner as teacher, even at the time of declaration, the petitioner was aged 32 years and she was an unmarried daughter. In a normal family, if a girl child that too occupying the post of teacher should have got married before 30 years. Only because of her disablement, she did not get married, even at the age of 32 years. However, the deceased employee failed to declare the details of the petitioner as disabled child, in her service records.

7. Further, on perusal of the photograph produced by the petitioner



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and the medical records placed before this Court reveal that the petitioner was suffering with diffuse cerebellar trophy and smaller caliber of spinal cord and her health condition worsening from time to time. Therefore, she could not be able to walk and speak normally and even she could not survive without the help of others. That apart, she is now counting her days.

8. In view of the above facts and circumstances of the case and considering the case of the petitioner as special one, this Court is inclined to set aside the order impugned in this Writ Petition. Accordingly, the impugned order dated 15.09.2021 passed by the 2nd respondent is set aside and the respondents are directed to disburse the family pension to the petitioner from the date of demise of her mother and till the date of her life time. The said exercise shall be carried out within a period of six weeks from the date of receipt of a copy of this order.

9. With the above directions, this Writ Petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.



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Index : Yes/No

Internet : Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes/No



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G.K.ILANTHIRAIYAN, J.,

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To

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