

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

28 29.4.2025
Sc Ct. no.2

WPA 5502 OF 2025

Maya Ganguly @ Maya Rani Ganguly

Vs.

The State of West Bengal & Ors.

Mr. Jayanta Das
Ms. Soumita Ghosh.

....For the Petitioner

Mr. Srijan Nayak
Ms. Rituparna Maitra.

....For the respondents
State

Mr. Sourav Mondal

....For the Respondent
No.2

Mr. Jayanta Das, learned counsel appears for the petitioner.

Ms. Srijan Nayak, learned counsel appears for the respondents State.

Mr. Sourav Mondal, learned counsel appears for the respondent no.2.

The father of the petitioner was an employee of the Land Department of the State. The petitioner is at present about **71** years old who being an unmarried daughter claims to be still a dependant daughter and whose survival will depend on grant of Family Pension. The father retired in the year **1968**. The father died on **January 7, 1978**. After the demise of the father the mother of the petitioner being the widow had received Family Pension all along during her lifetime. The mother

died on **September 30, 1997**. A Memorandum/circular dated **March 3, 2008, Annexure-P4 at page 30** to the writ petition was issued by the State for granting Family Pension to the unmarried daughter. The said Memorandum/circular specifically provides that the benefit under the Memorandum/circular will be effective from the date of issue of the Memorandum/circular.

In this backdrop the petitioner has filed this writ petition in **2025** claiming Family Pension in terms of the said Memorandum/circular dated **March 3, 2008**.

Mr. Jayanta Das, learned counsel appearing for the petitioner has relied upon a judgment of this Court dated **September 25, 2023** delivered in **WPA 13318 of 2018** and submits that in the similar circumstance the claim of that writ petitioner was allowed to get the benefit under a Memorandum dated **April 13, 2010**. A copy of the said Memorandum dated **April 13, 2010** has also been made over to this Court and the same is taken on record.

Upon considering the said Memorandum it appears to this Court that the scope of that Memorandum is totally different from the scope of the instant Memorandum/circular dated **March 3, 2008**. Therefore, the ratio ***In the matter of : Kalpana Pal -vs.- The State of West Bengal & Ors.*** shall not apply in the facts of this case.

Learned counsel for the petitioner refers to a decision of the Larger Bench dated **June 20, 2023** rendered, *inter alia*, in **MAT 1518 of 2019, In the**

matter of : The State of West Bengal and Others –vs.- Sabita Roy. Before the Larger Bench the issue was also, whether the same Memorandum dated **April 13, 2010** would apply or not in the facts of those appeals and not the instant Memorandum/circular dated **March 3, 2008**.

Be that as it may, since the petitioner has raised a claim, the same needs to be considered by the appropriate authority after considering the relevant and connected facts and records in detail.

Accordingly, the petitioner shall serve a copy of this writ petition with all annexures along with a copy of today's order upon the respondent no.5 forthwith.

The respondent no.5 then upon issuing a prior hearing notice to the petitioner of at least **seven** days and after granting her an opportunity of hearing shall decide the issue in the light of the case made out in the writ petition by passing a reasoned order.

It is needless to mention that considering the age of the petitioner, the petitioner shall be entitled to be represented before the respondent no.5 through her duly authorized representative.

The entire exercise shall be carried out and completed by the respondent no.5 within a period of **six weeks** from the date of communication of this order. The reasoned order shall also be communicated to the petitioner within the said period of **six weeks**.

It is made clear that this Court has not gone into the merits of the claim of the petitioner and the petitioner

shall be at liberty to urge whatever points she wishes to urge by relying upon whatever records and documents she wishes to reply upon before the respondent no.5.

In the event the reasoned order goes in favour of the petitioner then the appropriate authority shall give an immediate effect thereto positively within a period of **two weeks** from the date of the said reasoned order to be passed.

It is also made clear that this order shall not create any right or equity in favour of the petitioner if the petitioner is not eligible to receive the benefit under the said Memorandum/circular dated **March 3, 2008** and the if the said Memorandum/circular shall not apply in the facts of the case of the petitioner strictly in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is further made clear that while deciding the issue the respondent no.5 shall decide it independently but strictly in accordance with law.

With the above observations and directions this writ petition, **WPA 5502 of 2025** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)