

Item- 21. 07-05-2025

sg

Ct. 8

MAT 587 of 2025
CAN 1 of 2025
CAN 2 of 2025

Banga Rani De @ Banga Rani Dey
Vs.
The State of West Bengal & Ors.

Mr. Subhrangsu Panda
Ms. Haritri Roy

...for the appellant

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee

...for respondents

In Re: CAN 2 of 2025

1. This is application for condonation of delay. There is a delay of 256 days in preferring the memorandum of appeal.
2. Sufficient cause being shown for not being able to file the instant memorandum of appeal within the time of limitation, the delay of 256 days in preferring the memorandum of appeal is condoned. The prayer for condonation of delay is allowed.
3. CAN 1 of 2025 is, thus, disposed of.

In Re: MAT 587 of 2025 with CAN 1 of 2025

4. This appeal is arising out of an order dated 10th July, 2024 passed by the learned Single Judge whereby the learned Single Judge has directed payment of pension to be calculated in terms of the memorandum dated 13th June, 2014 within a period of one month from date upon

receipt of the calculation from the D.I. However, the arrear pension was declined on the ground that the writ petitioner approached the Court after 38 years from the date of death of her husband.

5. The learned Single Judge, considering the decision in ***FMA 864 of 2022 (Pramila Behra vs. The State of West Bengal & Ors.)*** and few decisions, has held that the petitioner being the widow of the employees, who died in harness on 10th August, 1986 and covered under ROPA 1990, would be automatically entitled pension as there was no need for any fresh exercise of option by the widow petitioner. The husband of the petitioner, as a matter of right, was entitled to pension which has been unduly denied by the State. It was, in fact, the obligation of the State to pay pension and the delay and laches would not be a ground in such a situation to defeat a legal and legitimate claim of the widow which is otherwise entitled to the pension. There is definitely a finding that upon death of the husband of the writ petitioner, the family pension is payable to the widow.
6. Similarly issues came up for consideration in ***Pramila Behra*** (supra) and ***Muktimoyee Pal (Dey)*** (supra) and after arriving at a conclusion that the widow is not required to exercise any option for the benefit of the family pension, the coordinate Bench has directed payment of arrear pension as well.
7. It is well-settled that the pension is not to be treated as a bounty payable on the sweet will and pleasure of the

respondents and that right to superannuatory pension including the norms is a valuable right vesting in a Government servant. The right to receive pension was treated as right to property under Article 300A of the Constitution of India. There is no dispute that the service condition of the writ petitioner provides for pension which, in effect, is a defer salary and his right does not depend upon the discretion of the Government.

8. On such consideration, we allow this appeal and direct the respondent nos. 4 and 5 to this appeal to pay the arrear pension within a period of three months from the issuance of a fresh pension payment order without any interest on such arrear amount provided such arrear payment are released within the aforesaid period, failing which the arrear pension shall carry interest at the rate of 10% per annum till payment.
9. In the event the arrear payments are not paid in the manner as aforesaid, it would be open for the appellant to apply before this Court for extension of the said order.
10. With the aforesaid directions, the appeal and the stay application are disposed of.
11. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Smita Das De, J.)