

16. 09.06.2025
(M/L) Court No.02.
(Pritam)

WPA 11821 of 2024

**Sunil Kumar Debnath @ Munshi Mujibar
Rahaman
-Vs.-
The State of West Bengal & Ors.**

Mr. Mahendra Prasad Gupta,
Ms. Moumita Dhar.

.....for the petitioner.

Mr. Rabindra Nath Bag, Sr. Adv., (*Via VC*)
Mr. Rakesh Singh,
Mr. S.K. Wasim Akram,
Mr. Piyas Chowdhury.

.....for the State/respondent nos.1 to 4.

Mr. Sayan Kanjilal

....for the respondent no.5.

Mr. Mahendra Prasad Gupta, learned advocate
appears for the petitioner.

Mr. Rabindra Nath Bag, learned senior advocate
appears virtually for the State/respondent nos.1 to 4.

Mr. Sayan Kanjilal appears for the respondent
no.5.

This is the second round of writ litigation. One Anjana Debnath since deceased was a Central Government employee. The writ petitioner claiming to be the dependent husband of Anjana claimed family pension after her demise. Family pension was granted to the writ petitioner for about two years and then suddenly the employer had stopped it. This led the petitioner to file the first writ petition being WPA 3401 of

2019. The first writ petition was disposed of by a co-ordinate bench by an order dated September 27, 2019 when the co-ordinate bench directed the appropriate authority after granting opportunity of hearing to the petitioner and other relevant parties to pass a reasoned order, on the alleged claim of the petitioner.

The family pension was stopped due to a complaint lodged by one Shyamasree Debnath who claimed herself to be the daughter of Anjana Das (Debnath) and one Sunil Kumar Debnath. The principal objection of Shyamasree was that the petitioner herein was not the actual husband of Anjana that is Sunil Kumar Debnath.

Be that as it may, the reasoned order was passed by the authority dated January 9, 2024 **annexure p-9 page 57** to the writ petition and the same is impugned in the instant writ petition by the petitioner.

The law is well-settled. This constitutional court while exercising its power under judicial review in exercise of the provisions laid down under Article 226 of the Constitution of India, shall seldom go for a detailed fact-finding enquiry. The authority of the court to interfere with the reasoned decision is very limited, unless a perversity is *ex facie* apparent on the face of the impugned order and *ex facie* infirmity is there in the decision-making process, this constitutional court shall

not interfere with the reasoned order passed by the authority.

In the light of the above principle of law, while scrutinizing the impugned order, it appears to this court that the order impugned has been passed upon consideration of the materials placed before it and after granting opportunity of hearing to the petitioner and the relevant parties. The content and purport of the impugned order shows it is very well-versed and well-reasoned. The documents and evidences discussed by the authority while passing the impugned order have been done in an elaborate manner and the correctness of this finding on the basis of the materials available before the authority, on which the impugned order was passed, cannot be gone into by this constitutional court by conducting any further fact-finding enquiry on the basis of the said evidences.

The arguments made on behalf of the petitioner that once the petitioner has been allowed to receive family pension and the necessary Pension Payment Order was issued in favour of the petitioner, the authority could not have stopped the said family pension to be paid to the petitioner and the primary enquiry had already taken place, on the basis whereof the PPO was issued and the petitioner was allowed to be paid with the family pension.

The finding from the impugned order shows that there were sufficient factual anomalies and after conducting the fact-finding enquiries at the instance of the objection raised by Shyamasree, the family pension was stopped. There is no bar for the same, if the factual anomalies are apparent before the authority that the family pension was paid mistakenly. The discussions from the impugned order show that factual anomalies were there which were *ex facie* apparent on record.

In view of the above, the petitioner first has to establish his right to receive the family pension by establishing an unimpeachable case that the finding recorded in the impugned order on the basis of the relevant materials or otherwise were wrong. This is not the job of the writ court to go for a detailed fact-finding enquiry. The issues raised by the parties before the authority, as would be evident from the impugned order, were triable in nature and without conducting a proper trial by a competent civil court, no conclusive decision can be arrived at.

In view of the above, the impugned order dated January 9, 2024 is not interfered with by this court.

However, the petitioner shall be at liberty to institute a properly framed civil suit before the competent civil court having jurisdiction on the issue, where the petitioner shall also be at liberty to challenge the said impugned order by impleading all the necessary

and proper parties in the said civil suit and then after conducting a proper trial on the issue, the jurisdictional civil court shall be free to come to a logical conclusion in accordance with law.

The petitioner shall be at liberty to institute the said civil suit within a period of six weeks from date.

In the event, the said civil suit is instituted, it is expected by this court that the jurisdictional civil court shall proceed with the same expeditiously.

With the aforesaid observations, this writ petition being **WPA 11821 of 2024** stands **dismissed** without any order as to costs.

(Aniruddha Roy, J.)