

24
21.03.2025
Court No. 25
D.Hira

WPA 11666 of 2019

Sila Sarkar

Vs.

The State of West Bengal & Ors.

Mr. Ekramul Bari,

Sk. Imtiaj Uddin.

... for the petitioner

Mr. Susanta Pal,

Mr. Prabir Kumar Ray,

...for the State

1. An order of the Assistant Director of Pension Provident Fund and Group Insurance, West Bengal dated March 18, 2019 is under challenge in the present writ petition.
2. In the said impugned order, on the basis of the audit observations as stated below, the Assistant Director of Pension Provident Fund and Group Insurance, West Bengal has turned down the petitioner's prayer for grant of family pension due to death of her father, who has been working as an Assistant Teacher and breathed his last on January 27, 1985.
3. The relevant portion of the impugned order is as follows:-

"As per para-6 of G.O. no: 539-

SE(P&B)/SL-SS-61/10(Pt)

Dated:

01/11/2010, in the cases of employees of

WB recognized non-Govt aided

educational institutions who died-in-

harness or retired prior to 01/04/1981,

the benefit of family pension can be

extended only to the living widows of the ex-employees.

Therefore, in this instant case, the benefit of family pension cannot be extended any further as the wife of the deceased teacher had already died on 15/01/2016.”

4. Mr. Ekramul Bari, learned counsel appears for the petitioner and submits that in terms of the Hon’ble Larger Bench’s decision dated June 20, 2023 in MAT No. 1518 of 2019 **(The State of West Bengal & Ors. versus Sabita Roy)** with other appeals, the law has been settled to be that the unmarried/widow daughter of an employee, who was superannuated or died prior to coming into force of the Death-cum-Retirement Benefit Scheme, 1981 (with effect from April 1, 1981), shall be entitled for family pension.
5. Mr. Bari, submits that having the law now settled in the manner as stated above by the Hon’ble Larger Bench decision of this Court, the decision and order of the respondent authority, not to grant family pension to the petitioner, who is the unmarried daughter of the deceased retired teacher, who has died before the cut of date as prescribed, is an illegal and unauthorized stance taken by the said respondent authority, which liable to be set aside.
6. Mr. Susanta Pal, learned counsel is representing the State and does not deny his information regarding the Hon’ble Larger Bench’s order as above.

7. Having heard the learned counsels for the respective parties and perusing the records as well as the judgment of the Hon'ble Larger Bench as referred to on behalf of the petitioner, it is found that the father of the petitioner has expired on January 27, 1985. After demise of the said teacher, his widow was granted the pension. The widow of the said deceased person has also died on January 25, 2016.
8. The petitioner is the unmarried daughter of the couple who later on, has applied for grant of family pension in her favour.
9. Her application for grant of family pension was responded by the authority by dint of the impugned order dated March 18, 2019, thereby stating, *inter alia*, that in terms of **G.O. no: 539-SE(P&B)/SL-SS-61/10(Pt) Dated: 01/11/2010**, in the cases of employees of West Bengal Recognized Non-Government Aided Educational Institutions, who has either died-in-harness or retired prior to April 1, 1981, the benefit of family pension can be extended only to the living widows of the ex-employees.
10. By dint of the order of the Hon'ble Larger Bench of this Court dated June 20, 2023 in MAT 1518 of 2019 **(The State of West Bengal & Ors. versus Sabita Roy)**, the law is now settled, as regards the issue as it is involved in the present case.
11. The Court has been pleased to hold in the said order as follows:-

“Therefore, we answer the reference to this extent that the benefit of family pension

can be extended to unmarried/widowed daughter of an employee who superannuated or died prior to coming in force of the Death-cum-Retirement Benefit Scheme, 1981, which came into effect on and from 1st April, 1981.”

12. Having perused the same, this Court finds that the impugned decision of the respondent authority has not been in terms of the law settled by the judgment of the Hon'ble Larger Bench as mentioned above, thereby depriving the unmarried daughter of the said deceased person, that is the writ petitioner, of the family pension, whereas in terms of the law now well settled, the petitioner, being the unmarried daughter of the said deceased person would be eligible for grant of family pension.
13. Hence, having found the impugned order dated March 18, 2019 to be not in consonance with the settled law as above, the Court finds the same to be not maintainable.
14. It is, therefore, directed that the impugned order dated March 18, 2019 passed by the Assistant Director of Pension Provident Fund and Group Insurance, West Bengal, be set aside.
15. This writ petition is therefor, allowed and disposed of by directing the respondent no. 6/ The Director of Pension Provident Fund and Group Insurance, West Bengal, to immediately issue family pension to the petitioner being the unmarried daughter of the deceased school teacher, with effect from the date of her application for grant of family pension, if there is

any available with the record of the respondent no. 6, or else from the date of this order.

16. Let the respondent no. 6 take necessary steps as per direction of this Court within a period of four weeks from the date of communication of copy of this order.

17. In case, the respondent no. 6 finds the petitioner to be eligible for grant of any arrear pension, as per date of her application, if available, the same shall be released to the petitioner within a period of two months from the date of communication of copy of this order.

18. Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.

19. With the above observations and directions, the writ petition being No WPA 11666 of 2019 is disposed of, along with the pending applications, if any.

20. Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)